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# **NORTH CAROLINA REGISTER**

**VOLUME 11 • ISSUE 3 • Pages 101 - 180  
May 1, 1996**

## **IN THIS ISSUE**

Administrative Hearings, Office of  
Environment, Health, and Natural Resources  
Human Resources  
Labor  
Real Estate Commission  
Revenue  
Social Work, Certification Board for  
Rules Review Commission  
Contested Case Decisions

### **PUBLISHED BY**

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# **NORTH CAROLINA REGISTER**

## **IN THIS ISSUE**



**Volume 11, Issue 3  
Pages 101 - 180**

**May 1, 1996**

This issue contains documents officially  
filed through April 10, 1996.

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### **I. IN ADDITION**

#### **Environment, Health, and Natural Resources**

Wildlife Resources Commission . . . . . 104

#### **Human Resources**

Medical Assistance . . . . . 101 - 103

Rules Review Commission . . . . . 105

### **II. RULE-MAKING AGENDA**

#### **Labor**

Occupational Safety and Health . . . . . 106 - 108

### **III. RULE-MAKING PROCEEDINGS**

#### **Administrative Hearings, Office of**

Hearings Division . . . . . 110

#### **Environment, Health, and Natural Resources**

Environmental Management . . . . . 109 - 110

Marine Fisheries . . . . . 110

#### **Human Resources**

Facility Services . . . . . 109

### **IV. PROPOSED RULES**

#### **Human Resources**

Social Services Commission . . . . . 111 - 113

#### **Licensing Boards**

Real Estate Commission . . . . . 114 - 118

Social Work, Certification Board for . . . . . 118

#### **Revenue**

Corporate Income and Franchise Tax Division . . 113 - 114

### **V. TEMPORARY RULE**

#### **Labor**

Occupational Safety and Health . . . . . 119 - 153

### **VI. RULES REVIEW COMMISSION . . . . . 154 - 161**

### **VII. CONTESTED CASE DECISIONS**

Index to ALJ Decisions . . . . . 162 - 165

#### **Text of Selected Decisions**

95 ABC 1251 . . . . . 166 - 167

95 EHR 0320 . . . . . 168 - 172

94 OSP 1044 . . . . . 173 - 179

### **VIII. CUMULATIVE INDEX . . . . . 1 - 13**



**Publication Schedule**  
(December 1995 - September 1996)

FILING DEADLINES			NOTICE OF RULE-MAKING PROCEEDINGS		NOTICE OF TEXT (either column A or column B)							
volume and issue number	issue date	last day for filing	end of comment period	earliest register issue for publication of text	earliest date for public hearing	A. non-substantial economic impact			B. substantial economic impact			
						end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	
10:17	12/01/95	11/07/95	01/30/96	02/01/96								
10:18	12/15/95	11/22/95	02/13/96	02/15/96								
10:19	01/02/96	12/07/95	03/04/96	03/15/96								
10:20	01/16/96	12/20/95	03/18/96	04/01/96								
10:21	02/01/96	01/10/96	04/01/96	04/15/96	02/16/96	03/04/96	03/20/96	05/13/96	04/01/96	04/22/96	01/30/97	
10:22	02/15/96	01/25/96	04/15/96	05/01/96	03/01/96	03/18/96	03/20/96	05/13/96	04/15/96	04/22/96	01/30/97	
10:23	03/01/96	02/09/96	04/30/96	05/01/96	03/18/96	04/01/96	04/22/96	01/30/97	04/30/96	05/20/96	01/30/97	
10:24	03/15/96	02/23/96	05/14/96	05/15/96	04/01/96	04/15/96	04/22/96	01/30/97	05/14/96	05/20/96	01/30/97	
11:01	04/01/96	03/11/96	05/31/96	06/03/96	04/16/96	05/01/96	05/20/96	01/30/97	05/31/96	06/20/96	01/30/97	
11:02	04/15/96	03/22/96	06/14/96	07/01/96	04/30/96	05/15/96	05/20/96	01/30/97	06/14/96	06/20/96	01/30/97	
11:03	05/01/96	04/10/96	07/01/96	07/15/96	05/16/96	05/31/96	06/20/96	01/30/97	07/01/96	07/22/96	01/30/97	
11:04	05/15/96	04/24/96	07/15/96	08/01/96	05/30/96	06/14/96	06/20/96	01/30/97	07/15/96	07/22/96	01/30/97	
11:05	06/03/96	05/10/96	08/02/96	08/15/96	06/18/96	07/03/96	07/22/96	01/30/97	08/01/96	08/20/96	01/30/97	
11:06	06/14/96	05/23/96	08/13/96	08/15/96	07/01/96	07/15/96	07/22/96	01/30/97	08/13/96	08/20/96	01/30/97	
11:07	07/01/96	06/10/96	08/30/96	09/03/96	07/16/96	07/31/96	08/20/96	01/30/97	08/30/96	09/20/96	01/30/97	
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11:11	09/03/96	08/12/96	11/04/96	11/15/96	09/18/96	10/03/96	10/21/96	01/30/97	11/04/96	11/20/96	01/30/97	
11:12	09/16/96	08/23/96	11/15/96	12/02/96	10/01/96	10/16/96	10/21/96	01/30/97	11/15/96	11/20/96	01/30/97	



## EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2B .0103 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <ol style="list-style-type: none"> <li>(1) temporary rules;</li> <li>(2) notices of rule-making proceedings;</li> <li>(3) text of proposed rules;</li> <li>(4) text of permanent rules approved by the Rules Review Commission;</li> <li>(5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;</li> <li>(6) Executive Orders of the Governor;</li> <li>(7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;</li> <li>(8) orders of the Tax Review Board issued under G.S. 105-241.2; and</li> <li>(9) other information the Codifier of Rules determines to be helpful to the public.</li> </ol> <p><b>COMPUTING TIME:</b> In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.</p>	<p><b>ISSUE DATE:</b> The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p> <p><b>LAST DAY FOR FILING:</b> The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p><b>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS:</b> This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p> <p><b>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT:</b> The date of the next issue following the end of the comment period.</p>	<p><b>EARLIEST DATE FOR PUBLIC HEARING:</b> The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p><b>END OF REQUIRED COMMENT PERIOD</b></p> <ol style="list-style-type: none"> <li>(1) <b>RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.</li> <li>(2) <b>RULE WITH SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</li> </ol> <p><b>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:</b> The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p> <p><b>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:</b> This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p>

## TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

## DIVISION OF MEDICAL ASSISTANCE

This list is published in accordance with the federal Social Security Act, Section 923, Paragraph (c) which requires states to publish at least annually the name of each hospital qualifying for a Medicaid Disproportionate Share payment adjustment and the amount of such payment adjustment made for each such hospital.

## Disproportionate Share Payments

State Fiscal Year 1995

		TOTAL
Provider Name	Number	SFY 1995
Cabarrus Memorial	3400001	5,676
Memorial Mission Hospital	3400002	1,370,530
Northern Hosp of Surry Co	3400003	27,027
Annie Penn	3400007	8,307
Scotland Memorial Hospital	3400008	105,401
Presbyterian Specialty Hosp	3400009	2,019
Wayne Memorial Hospital	3400010	74,458
Blue Ridge Hosp Sys Inc	3400011	7,849
Rutherford Hospital	3400013	32,221
Forsyth Memorial Hospital	3400014	2,225,585
Rowan Memorial Hospital	3400015	63,157
C J Harris Community Hosp	3400016	37,348
Stokes Reynolds Hospital	3400019	1,693
Cleveland Memorial Hosp	3400021	42,371
Bladen County Hospital	3400022	16,824
Park Ridge Hospital	3400023	94,156
Sampson County Memorial	3400024	31,516
Haywood County Mem	3400025	8,721
Lenoir Memorial Hospital	3400027	73,479
Cape Fear Valley Hospital	3400028	492,259
Duke Univ Medical Center	3400030	2,894,875
Gaston Memorial Hospital	3400032	120,407
Richmond Memorial Hospital	3400035	51,302
Kings Mountain Hospital	3400037	6,695
Pitt County Memorial	3400040	939,899
Caldwell Memorial Hospital	3400041	27,131
Onslow Memorial Hospital	3400042	14,618
Alleghany Co Mem Hospital	3400044	2,430
N.C. Baptist Hospital	3400047	2,761,314
Southeastern General	3400050	159,508

Presbyterian Hospital	3400053	2,827
UNC Hospitals	3400061	38,806,777
Montgomery Memorial Hospital	3400063	7,448
Wilkes Regional	3400064	28,077
Chowan Hospital	3400065	34,490
Columbus County Hospital	3400068	35,868
Wake Medical System	3400069	1,745,710
Alamance Memorial	3400070	44,596
Betsy Johnson Memorial	3400071	23,688
Grace Hospital	3400075	10,517
Anson Count Hospital	3400084	7,142
Community General	3400085	33,839
McDowell Hospital	3400087	22,522
Transylvania Hospital	3400088	97,836
Pungo District Hospital	3400089	4,746
Johnston Memorial Hospital	3400090	35,182
Moses Cone Memorial	3400091	1,506,818
Cape Fear Memorial Hospital	3400094	641,204
Lexington Memorial Hosp	3400096	6,864
Mercy Hospital Inc	3400098	1,229
Roanoke Chowan Hospital	3400099	43,561
Heritage Hospital	3400107	78,100
Albemarle Hospital	3400109	31,114
Washington County	3400112	27,117
Carolinas Medical	3400113	66,666,586
Moore Regional Hosp	3400115	147,929
Stanly Memorial Hosp	3400119	9,477
Duplin General Hospital	3400120	59,405
Good Hope Hospital	3400124	14,813
Wilson Memorial Hospital	3400126	64,796
Granville Medical Center	3400127	11,617
Union Memorial	3400130	40,390
Craven Regional	3400131	113,001
Maria Parham Hospital	3400132	36,013
Martin General Hospital	3400133	10,192
John Umstead	3400136	2,790
Broughton	3400137	4,831
Dorothea Dix	3400138	20,989
New Hanover Memorial Hosp	3400141	1,254,179
Lincoln County	3400145	19,092
Nash General Hospital	3400147	122,551
Halifax Memorial Hospital	3400151	64,205
Western Carolina Center	3400154	1,771
Brunswick County Hospital	3400158	48,753
Murphy Medical Center	3400160	13,169
Amos Cottage Rehab Hospital	3400170	503,109
Amos Cottage	3400500	26,678
Youth Care Psychiatric	3400501	92,509
Charlotte Rehabilitation	3402003	62,786



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*IN ADDITION*

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Thoms Rehabilitation	3403025	39,917
Dorothea Dix	3404001	33,509,240
Broughton	3404002	28,396,433
Cherry	3404003	36,205,147
John Umstead	3404004	31,331,487
Charter Hosp/Winston Salem	3404006	10,315
Cumberland	3404010	47,335
Charter Hosp of Greensboro	3404015	16,361
HSA Brynn Marr	3404016	39,651
Charter North Ridge	3404018	7,849
CPC Cedar Springs	3404020	2,230
J.C.M.C.H. Johnson City Med	4400063	922
Sentara Norfolk General Hosp	4900007	5,065
Prince William Hospital	4900045	1,323
National J Center	9603302	381
Grand Total		\$254,001,335

## North Carolina Wildlife Resources Commission

512 N. Salisbury Street, Raleigh, North Carolina 27604-1188, 919-733-3391

Charles R. Fullwood, Executive Director

### PROCLAMATION

Charles R. Fullwood, Executive Director, North Carolina Wildlife Resources Commission, acting pursuant to North Carolina General Statute §113-292 (cl) and authority duly delegated by the Wildlife Resources Commission, hereby declares that the season for harvesting striped bass by hook-and-line shall close in all waters of the Roanoke River Striped Bass Management Area downstream of the Edwards Ferry Boating Access Area at US 258 bridge on the Roanoke River in Halifax County at 12:00 midnight on Wednesday, April 10, 1996.

In the Roanoke River and its tributaries upstream of the Edwards Ferry Boating Access Area at US 258 bridge striped bass may be harvested from 12:01 a.m. on Saturdays through 12:00 midnight on Sundays, and from 12:01 a.m. through 12:00 midnight on Wednesdays. On all other days all striped bass caught, regardless of condition, shall be immediately returned to the waters where taken and no striped bass may be possessed.

The Roanoke River Striped Bass Management Area is defined as the inland and joint fishing waters of the Roanoke River and its tributaries, extending from its mouth to Roanoke Rapids Dam, including the Cashie, Middle, and Eastmost rivers and their tributaries.

This proclamation shall be effective at 12:00 midnight, April 10, 1996 and shall remain in effect until a new proclamation opening described waters or portions thereof for striped bass fishing is issued.

This proclamation supersedes and replaces all prior proclamations.

#### NOTES:

- a) This Proclamation is issued under the authority of N.C.G.S. §§113-132; 113-134; 113-292; 113-304; and 113-305.
- b) All striped bass regardless of condition caught during the closed season shall be immediately returned to the waters where taken and no striped bass may be possessed.
- c) Any person who violates this Proclamation also violates applicable law and is subject to the sanctions provided by law.

#### NORTH CAROLINA WILDLIFE RESOURCES COMMISSION

by: Charles R. Fullwood  
Executive Director

Date: 04/01/96

**PUBLIC NOTICE**  
**RULES REVIEW COMMISSION**

The Rules Review Commission is proposing to adopt rules of order for its consideration of rules pursuant to Part 3 of Article 2A of Chapter 150B of the General Statutes. Among the issues proposed to be addressed are the following:

- (1) *ex-parte* oral communication with Commission members;
- (2) submission of written comments to the Commission;
- (3) requirement for notice prior to oral presentations before the Commission;
- (4) limitations on oral presentations;
- (5) withdrawal of rules after they have been submitted to the Commission;
- (6) submission of rewritten rules by agencies at the same meeting at which the Commission objects to the originally submitted rules;
- (7) requirement that rewritten rules be accompanied by some written indication that they are submitted either by the rulemaking agency directly, or under its specific delegation;
- (8) requirement that all technical changes and rewritten rules be submitted to the Commission by a specified deadline in order to be considered at a meeting.

Persons desiring to submit written comments on these issues or other issues relating to rules of order for the consideration of rules by the Commission should address them to Joseph J. DeLuca, Jr., Rules Review Commission, 1307 Glenwood Avenue, Suite 159, Raleigh, NC 27605. Only comments received by 5 pm on May 13, 1996 will be forwarded to the Commission members. Oral comments may be submitted to RRC staff but will not be forwarded to Commission members.

**TITLE 13 - DEPARTMENT OF LABOR**

**CHAPTER 7 - OFFICE OF OCCUPATIONAL SAFETY AND HEALTH**

**SUBJECT:** Guidelines for Fire Departments

**RULE CITATION:** 13 NCAC 07F

**STATUTORY AUTHORITY:** G.S. 95-131; 95-148

**DIVISION:** Division of Occupational Safety and Health/NC Dept. of Labor

**DIVISION CONTACT/TELEPHONE:** Jill F. Cramer/(919) 662-4581 or 1-800-LABORNC

**DATE INITIATED:** January 15, 1996

**DURATION OF RULE:** Permanent

**TYPE OF RULE:** Adoption of standards for fire department safety and health.

**STAGE OF DEVELOPMENT:** Concept stage

**GOV LEVELS AFFECTED:** NC Fire and Rescue Commission; Municipal and local government fire departments except for those specifically excluded under G.S. 95-148.

**REASON FOR ACTION:** Standards for adoption and regulations for incorporation have been recommended by the NC Fire and Rescue Commission pursuant to G.S. 95-148.

**SCOPE/NATURE/SUMMARY:** A uniform system of standards would be provided for municipal and local government fire departments to establish and maintain a congruent and comprehensive safety and health program under the Occupational Safety and Health Act of North Carolina.

**CITATION TO EXISTING RULE AFFECTED:** Unknown

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**SUBJECT:** Reformatting all rules under Subchapter 7F - Standards of Title 13.

**RULE CITATION:** 13 NCAC 07F

**STATUTORY AUTHORITY:** G.S. 95-131; 95-133

**DIVISION:** Division of Occupational Safety and Health, NC Dept. of Labor

**DIVISION CONTACT/TELEPHONE:** Jill F. Cramer, (919) 662-4581 or 1-800-LABORNC

**DATE INITIATED:** January 15, 1996

**DURATION OF RULE:** Permanent

**TYPE OF RULE:** Amendment to format only; no substantive amendments.

**STAGE OF DEVELOPMENT:** Concept Stage

**GOV LEVELS AFFECTED:** None

**REASON FOR ACTION:** To simplify the structure of the standards and make the state regulations more understandable and accessible.

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## **RULE-MAKING AGENDA**

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**SCOPE/NATURE/SUMMARY:** This will be an overhaul of all subsections of Subchapter 7F of Title 13, Division of Occupational Safety and Health, NC Department of Labor, except 7F .0102, *Life Safety Code*.

**CITATION TO EXISTING RULE AFFECTED:** 13 NCAC 07F .0101, .0201, .0301, .0501 and .0502.

---

**SUBJECT:** Construction Standards, Subpart U, *Blasting & Use of Explosives*

**RULE CITATION:** 13 NCAC 07F .0201

**STATUTORY AUTHORITY:** G.S. 95-131; 95-133

**DIVISION:** Division of Occupational Safety and Health, NC Dept. of Labor

**DIVISION CONTACT/TELEPHONE:** Jill F. Cramer, (919) 662-4581 or 1-800-LABORNC

**DATE INITIATED:** December 6, 1995

**DURATION OF RULE:** Permanent

**TYPE OF RULE:** Amendments to Subpart U of the Occupational Safety and Health Construction Standards.

**STAGE OF DEVELOPMENT:** In-house review stage.

**GOV LEVELS AFFECTED:** Department of Transportation and Department of Insurance, Building Code Council

**REASON FOR ACTION:** To amend the current standard to reflect recent developments in blasting safety, and to integrate current blasting techniques and explosives technology into the standards. A draft proposal was submitted to the Division of Occupational Safety and Health by the NC Utility Contractors Association. The draft, which has been reviewed by the International Makers of Explosives, the National Utility Contractors Association and the Associated General Contractors of America, was submitted to the OSH Advisory Council pursuant to procedures established at 13 NCAC 07A .0512.

**SCOPE/NATURE/SUMMARY:** This will be an amendment to one subpart of the OSHA Construction standards to update Subpart U. It will incorporate more current blasting techniques and provide for more current safety precautions in the use of explosives.

**CITATION TO EXISTING RULE AFFECTED:** Unknown

---

**SUBJECT:** Agriculture Standards, 29 CFR 1928

**RULE CITATION:** 13 NCAC 07F .0301

**STATUTORY AUTHORITY:** G.S. 95-131; 95-133

**DIVISION:** Division of Occupational Safety and Health, NC Dept. of Labor

**DIVISION CONTACT/TELEPHONE:** Jill F. Cramer, (919) 662-4581 or 1-800-LABORNC

**DATE INITIATED:** January 15, 1996

**DURATION OF RULE:** Permanent

**TYPE OF RULE:** Amendments to the current Agriculture standards.

---



**STAGE OF DEVELOPMENT:** Concept stage

**GOV LEVELS AFFECTED:** Unknown

**REASON FOR ACTION:** Agricultural operations in the State of North Carolina have gravitated away from the traditional farm and have become more industrialized in recent years. There is increased concern from an occupational safety and health perspective about worker safety on the industrial farm operations.

**SCOPE/NATURE/SUMMARY:** This will be an amendment to incorporate by reference parts of the General Industry and Construction standards into the Agriculture standards for use by Consultation and Compliance for inspections of agricultural establishments.

**CITATION TO EXISTING RULES AFFECTED:** Unknown

**TITLE 10 - DEPARTMENT OF HUMAN  
RESOURCES**

**CHAPTER 3 - FACILITY SERVICES**

**Notice of Rule-making Proceedings** is hereby given by the NC Child Day Care Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 10 NCAC 03U .0604. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 110-85(2); 110-91(3),(6)

**Statement of the Subject Matter:** *General Safety Requirements*

**Reason for Proposed Action:** *This Rule is being amended to clarify when protrusions might be allowed on fences.*

**Comment Procedures:** *Questions or written comments regarding this matter may be directed to Jeanne Marlowe, APA Coordinator, Division of Child Development, 319 Chapanoke Rd., PO Box 29553, Raleigh, NC 27626-0553; 919/662-4535.*

**TITLE 15A - DEPARTMENT OF  
ENVIRONMENT, HEALTH, AND NATURAL  
RESOURCES**

**CHAPTER 2 - ENVIRONMENTAL  
MANAGEMENT**

**SUBCHAPTER 2B - SURFACE WATER  
STANDARDS: MONITORING**

**Notice of Rule-making Proceedings** is hereby given by the Environmental Management Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 15A NCAC 2B .0223 and .0229. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 143-214.1

**Statement of the Subject Matter:** *On September 12, 1989, the Environmental Management Commission (EMC) classified the Tar-Pamlico River Basin as Nutrient Sensitive Waters and subsequently adopted Phase I of the Nutrient Management Strategy. The proposed rule-making would codify the second phase of the Tar-Pamlico River Basin Nutrient Sensitive Waters Management Strategy. This strategy requires additional mandatory measures for point sources (wastewater dischargers) and encourages voluntary actions for nonpoint sources to achieve nutrient loading reductions to the Tar-Pamlico River Basin. The strategy allows point sources the option of joining a group of dischargers in the Tar-Pamlico Basin Association (the Association) and collectively meet the nutrient loading reductions. If the nutrient loading reductions are not met, then the Association is required to fund nonpoint source best management practices to achieve equivalent loading reductions. Mandatory nutrient control requirements for the dischargers who are not members of the Association are being proposed as part of the Phase II strategy. We are seeking comments on the mandatory nutrient control requirements for the dischargers who are not members of the Association.*

**Reason for Proposed Action:** *The EMC gave the Division of Environmental Management staff permission to proceed to public hearing on the nonpoint source offset requirements for wastewater dischargers in the Tar-Pamlico River Basin who are not members of the Association. The proposed rule modifications and additions will serve to codify the EMC-approved Tar-Pamlico River Basin Nutrient Sensitive Waters Management Strategy and to allow public comment on the proposal to require new and expanding wastewater dischargers not in the Association to offset their additional nutrient loads by funding nonpoint source control programs approved by the Division of Environmental Management.*

**Comment Procedures:** *The purpose of this announcement is to encourage those interested in this proposal to provide written comments. Written comments, data or other information relevant to this proposal must be submitted by July 1, 1996. It is very important that all interested and potentially affected persons or parties make their views known to the EMC whether in favor of or opposed to any or all provisions of the proposal being noticed. If you are opposed to any or all of this proposal, then you are encouraged to offer appropriate alternative proposals. Written comments may be submitted to:*

*Dianne Reid  
DEHNR/DEM Water Quality Planning  
PO Box 29535*

Raleigh, NC 27626-0535  
(919) 733-5083 extension 568

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### CHAPTER 3 - MARINE FISHERIES

**Notice of Rule-making Proceedings** is hereby given by the NC Marine Fisheries Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 15A NCAC 3M .0202, .0504, .0511. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 113-134; 113-182; 113-221; 143B-289.4

**Statement of the Subject Matter:** Rule .0202 - Striped bass bag and size limit; Rule .0504 - Spotted seatrout and weakfish bag and size limit; Rule .0511 - Bluefish bag and size limit.

**Reason for Proposed Action:** To allow different size and bag limits.

**Comment Procedures:** Written comments may be submitted to Juanita Gaskill, c/o the Marine Fisheries Commission, PO Box 769, Morehead City, NC 28557. Comments will be received through July 1, 1996.

authority to consent to an expedited hearings' process and abbreviated hearings' procedures.

**Reason for Proposed Action:** Parties in complex administrative litigation are in need of optional rules to expedite hearings at OAH. The proposed rules would allow parties to stipulate to a procedure to expedite the administrative hearing and issuance of a Recommended Decision.

**Comment Procedures:** Interested persons may submit written comments regarding this subject matter to: Anna K. Baird, Rule-Making Coordinator, Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, NC 27611-7447. Comments shall be received by OAH no later than 5:30 p.m. on July 1, 1996.

## TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS

### CHAPTER 3 - HEARINGS DIVISION

**Notice of Rule-making Proceedings** is hereby given by the Office of Administrative Hearings in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 26 NCAC 3

**Authority for the rule-making:** G.S. 150B-31(b)

**Statement of the Subject Matter:** To adopt rules which would give parties in complex contested cases the



**TITLE 10 - DEPARTMENT OF HUMAN  
RESOURCES**

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to adopt rules cited as 10 NCAC 41F .0707, .0813 - .0814; amend rules cited as 10 NCAC 41F .0705; 42V .0201, .0802 - .0803; and repeal rules cited as 10 NCAC 41F .0706, .0812.

**Proposed Effective Date:** April 1, 1997.

**A Public Hearing** will be conducted at 10:00 am on June 5, 1996 at the Albemarle Building, Room 943-2, 325 N. Salisbury Street, Raleigh, NC 27603.

**Reason for Proposed Action:** 10 NCAC 41F .0706, .0707, .0812, .0813 - The adoption and repeal of these rules is necessary to implement revisions made by the 1995 Session of the NC General Assembly to G.S. 131D-10.2 and 10.3 requiring criminal history checks on foster parents. 10 NCAC 41F .0707 specifies the foster parent requirements. 10 NCAC 41F .0813 specifies the supervising agency requirements. 10 NCAC 41F .0706 and .0812 need to be repealed due to statutory changes for the definitions of criminal history and foster parent. 10 NCAC 41F .0705, .0814 - In 1995, the General Assembly passed legislation requiring that training be provided to foster and adoptive parents. It required that foster and adoptive parents participate in 30 hours of pre-service training and that foster parents participate in 10 hours annually of in-service training in order to maintain their foster home licenses. This request to adopt training requirements for adoptive parents and amend training requirements for foster parents is made to assist county departments of social services in implementing this legislation. 10 NCAC 42V .0201, .0802, .0803 - Current Administrative Rules for Adult Protective Services (APS) do not allow the county departments of social services to share needed information with the criminal justice system for the purpose of investigations and prosecutions in abuse, neglect, or exploitation cases. District Attorney's offices and law enforcement agencies need the names of potential witnesses as well as other specific, relevant information obtained during the course of the APS evaluation. These amendments will allow county departments of social services to share information about an APS case with the criminal justice system. These rules were filed as temporary amendments effective December 12, 1995.

**Comment Procedures:** Comments may be presented in writing any time prior to or during the hearing. Comments may also be presented orally at the public hearing. Time limits for oral remarks may be imposed by the Commission Chairman. Any person wishing to

comment on this rule or request copies of this rule may call or write Sharnese Ransome, Division of Social Services, 325 N. Salisbury Street, Raleigh, NC 27603, phone 919/733-3055.

**Fiscal Note:** 10 NCAC 41F .0705, .0814 affect the expenditures or revenues of local government funds. Economic impact does not exceed \$5,000,000.

**Fiscal Note:** 10 NCAC 41F .0707, .0813 affect the expenditures or distributions of State funds subject to the Executive Budget Act, Article 1 of Chapter 143. Economic impact does not exceed \$5,000,000.

**Fiscal Note:** 10 NCAC 41F .0706, .0812; 42V .0201, .0802, .0803 do not affect the expenditures or revenues of state or local government funds. Economic impact does not exceed \$5,000,000.

**CHAPTER 41 - CHILDREN'S SERVICES**

**SUBCHAPTER 41F - LICENSING OF FAMILY  
FOSTER HOMES**

**SECTION .0700 - STANDARDS FOR  
LICENSING**

**.0705 CRITERIA FOR SERVICES TO FOSTER  
FAMILY**

(a) Quarterly Visits. Visits with the foster family by agency staff must be made at least on a quarterly basis. Two of the quarterly visits within the licensing year must be made in the foster home for the purpose of discussing with the foster parents matters related to any services needed by the foster family and to ensure that minimum licensing standards continue to be met.

(b) Training related to the responsibilities and rights of the foster family must be provided prior to placement of children in the home and at least annually thereafter.

Authority G.S. 131D-10.5; 143B-153.

**.0706 CRIMINAL CONVICTIONS**

~~An applicant shall not be eligible for licensure as a foster parent if the applicant, or any member of the applicant's household thirteen (13) years or older, has been convicted or entered a plea of no contest to a crime, and there is a relationship between the nature of the crime and the ability of the prospective foster parent to assure the health, safety and well being of foster children; provided a license shall be denied if the applicant or any member of the household thirteen (13) years or older has been convicted or entered a plea of no contest to a felony involving violent behavior, unlawful sexual conduct, minor children or controlled drugs.~~

Authority G.S. 131D-10.5; 143B-153.

# **.0707 CRIMINAL HISTORIES**

An applicant shall not be eligible for licensure if the applicant, or any member of the applicant's household 18 years of age or older, refuses to consent to any criminal history check required by G.S. 131D, Art. 1A or if the Division of Social Services determines that the applicant, or any member of the applicant's household 18 years of age or older is unfit, based on the criminal history, to have responsibility for the safety and well-being of children.

Authority G.S. 131D-10.5; 143B-153.

## **SECTION .0800 - LICENSING REGULATIONS AND PROCEDURES**

### **.0812 CRIMINAL BACKGROUND CHECKS**

~~The supervising agency shall conduct a criminal background investigation through access of the Department of Corrections Inmate/Probation Inquiry System for all members of the foster family household thirteen (13) years and older at the time of initial application and annually thereafter. The results of the criminal background investigation shall be reported to the Division of Social Services on the application form.~~

Authority G.S. 131D-10.5; 143B-153.

### **.0813 CRIMINAL HISTORY CHECKS**

The supervising agency shall carry out the following for all foster parents applying for relicensure of a family foster home, new foster parent applicants and any member of the foster parents' or prospective foster parents' household 18 years of age or older:

- (1) furnish the written notice as required by G.S. 131D-10.3A(e);
- (2) obtain a signed consent form for a criminal history check and submit the signed consent form to the Division of Social Services;
- (3) obtain two sets of fingerprints on SBI identification cards and forward both sets of fingerprints to the Division of Social Services. Once an individual's fingerprints have been submitted to the Division of Social Services, additional fingerprints shall not be required; and
- (4) conduct a local criminal history check through accessing the Administrative Office of the Courts and the Department of Corrections Inmate/Probation Inquiry Systems and submit the results of the criminal history checks to the Division of Social Services on the application form.

Authority G.S. 131D-10.5; 143B-153.

### **.0814 TRAINING REQUIREMENTS**

(a) In order to provide improved services to children and families, each agency shall provide, or cause to be provided, preservice training for all prospective foster parents. Training shall be subject to the specifications of Paragraph (b) of this Rule.

(b) As a condition of licensure for foster parent applicants, each applicant shall successfully complete 30 hours of preservice training. Preservice training shall include the following components:

- (1) General Orientation to Foster Care and Adoption Process;
- (2) Communication Skills;
- (3) Understanding the Dynamics of Foster Care and Adoption Process;
- (4) Separation and Loss;
- (5) Attachment and Trust;
- (6) Child Development;
- (7) Behavior Management;
- (8) Working with Birth Families and Maintaining Connections;
- (9) Lifebook Preparation;
- (10) Planned Moves and the Impact of Disruptions;
- (11) The Impact of Placement on Foster and Adoptive Families;
- (12) Teamwork to Achieve Permanence;
- (13) Cultural Sensitivity;
- (14) Confidentiality;
- (15) Health and Safety.

(c) Prior to licensure renewal, each foster parent shall successfully complete 10 hours of inservice training. This training may be child-specific or may concern issues relevant to the general population of children in foster care.

- (1) Each agency shall provide, or cause to be provided, 10 hours of inservice training for foster parents annually.
- (2) Such training shall include subjects that would enhance the skills of foster parents and promote stability for children.
- (3) A foster parent may complete relevant training provided by some other qualified agency or person and upon approval by the placing agency, that training shall count toward meeting the requirements specified in this section.
- (4) Each agency shall document in the foster parent record the type of activity the foster parent has completed in pursuance of this section.

(d) In order for a foster family caring for a child with HIV (human immunodeficiency virus) or AIDS (acquired immunodeficiency syndrome) to receive the HIV supplemental payment, that family must attend six hours of advanced medical training annually. This training must consist of issues relevant to HIV or



AIDS. This training will count toward the training requirements of Paragraph (c) of this Rule.

*Authority S.L. 1993, c.769, s. 25.11.*

## CHAPTER 42 - INDIVIDUAL AND FAMILY SUPPORT

### SUBCHAPTER 42V - PROTECTIVE SERVICES FOR ADULTS

#### SECTION .0200 - ACCEPTANCE AND EVALUATION OF PROTECTIVE SERVICES REPORTS

##### .0201 ACCEPTANCE OF REPORTS

(a) The county department of social services must accept all reports alleging an abused, neglected, or exploited disabled adult is in need of protective services. This includes anonymous reports. If the county department determines that the address of the disabled adult given in the report is in another county, the department shall refer the person making the report to the appropriate county department. The county department receiving the original report shall follow up to make sure the appropriate county has received the report.

(b) The department of social services shall make arrangements for 24 hour coverage to receive calls and take appropriate action.

(c) Notwithstanding provisions in any other sections of 10 NCAC 42V, the director may immediately tell the District Attorney's office and local law enforcement agencies when there is reason to believe that physical harm may occur to the disabled adult. This would include sharing evidence of abuse or neglect the agency has to date.

*Authority G.S. 108A-103; 143B-153.*

#### SECTION .0800 - CONFIDENTIALITY

##### .0802 IDENTITY OF COMPLAINANT AND OF INDIVIDUALS WHO HAVE KNOWLEDGE OF THE SITUATION

The identity of the complainant and of individuals who ~~provide information about~~ have knowledge of the situation of the disabled adult shall be kept confidential unless the court requires that such persons' identities be revealed with the ~~exception~~ exceptions that the complainant's name and the names of individuals who ~~provide information about~~ have knowledge of the situation of the disabled adult may be given verbally to the Division of Facility Services when requested by that agency in order to carry out its ~~investigation~~ investigation, and to the District Attorney's office and to law enforcement agencies which are prosecuting or

conducting a criminal investigation of alleged abuse, neglect or exploitation of a disabled adult.

*Authority G.S. 108A-103; 143B-153.*

##### .0803 SPECIFIC FINDINGS

Specific findings of the evaluation shall be kept confidential and shall not be released without consent of the disabled adult or court order, except that the department of social services at its discretion may share information about the adult may be shared with other persons or agencies without the adult or caretaker's consent to the extent necessary to provide protective services. When evidence of abuse, neglect, or exploitation is found, upon request of the district attorney or law enforcement agencies, such information shall be sent to help with a criminal investigation or prosecution of abuse, neglect or exploitation.

*Authority G.S. 143B-153.*

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## TITLE 17 - DEPARTMENT OF REVENUE

**N**otice is hereby given that the North Carolina Department of Revenue intends to amend rule cited as 17 NCAC 05C .0102.

**Proposed Effective Date:** January 30, 1997

**Editor's Note:** G.S. 150B-1(d)(4) exempts the Department of Revenue from Part 2 Article 2A of Chapter 150 with respect to the notice and hearing requirements. The Department will however publish the text of proposed rules in the North Carolina Register prior to the scheduled time of review by the Rules Review Commission.

**Reason for Proposed Action:** This amendment expands the Department's definition of "doing business" to include and specify the activities that generate income from either tangible or intangible sources taxable in this state as provided under the authority of North Carolina General Statute 105-130.3.

**Comment Procedures:** Written public comment should be addressed to Jack L. Harper, Assistant Secretary for Tax Administration, PO Box 871, Raleigh, NC 27602-0871. Comments must be received by May 31, 1996.

**Fiscal Note:** This Rule does not affect the expenditures or revenues of state or local government funds.

## CHAPTER 5 - CORPORATE INCOME AND FRANCHISE TAX DIVISION

SUBCHAPTER 5C - CORPORATE INCOME  
TAX

SECTION .0100 - CORPORATIONS SUBJECT  
TO THE TAX: TAX RATE AND ALLOCATION

.0102 DOING BUSINESS DEFINED

(a) For income tax purposes, ~~the term~~ "doing business" ~~means is~~ the operation of any business enterprise or activity in North Carolina for economic ~~gain, including, but gain including, but~~ not limited to, the following:

- (1) the maintenance of an office or other place of business in North Carolina;
  - (2) the maintenance in North Carolina of an inventory of merchandise or material for sale, distribution or manufacture, regardless of whether kept on the premises of the taxpayer or in a public or rented warehouse;
  - (3) the selling or distributing of merchandise to customers in North Carolina directly from a company-owned or operated vehicle when title to the merchandise is transferred from the seller or distributor to the customer at the time of the sale or distribution;
  - (4) the rendering of a service to clients or customers in North Carolina by agents or employees of a foreign corporation;
  - (5) the owning, renting, or operating of business or income-producing property in North Carolina including, but not limited to, the following:
    - (A) Realty;
    - (B) Tangible personal property;
    - (C) Trademarks, tradenames, franchise rights, computer programs, copyrights, patented processes, licenses;
  - (6) the conducting of any activity which results in the acquisition or control of property, tangible or intangible, that produces income sourced to this state under the applicable rules and regulations including, but not limited to, the following:
    - (A) receivables generated by and/or resulting from credit card transactions if the payor is located in this State;
    - (B) receivables generated by and/or resulting from loans, secured or unsecured, if the payor is located in this State;
  - (7) the conducting of any activity which results in the origination or acquisition of a loan when real property within the state serves as collateral or security for the receivable without regard to the location of the borrower.
- (b) Corporations who are partners in a partnership or

joint venture operating in North Carolina are ~~considered to be~~ "doing business".

(c) "Doing business" by an interstate motor carrier is ~~defined as~~ the performance of any of the following business activities in North Carolina:

- (1) The maintenance of an office in the State;
- (2) The operation of a terminal or other place of business in the State;
- (3) Having an employee working out of the office or terminal of another company;
- (4) Dropping off or gathering up shipments in the State.

Authority G.S. 105-130.3; 105-262.

TITLE 21 - OCCUPATIONAL LICENSING  
BOARDS

CHAPTER 58 - REAL ESTATE COMMISSION

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Real Estate Commission intends to amend rules cited as 21 NCAC 58A .0101, .0105, .0109 - .0110, .0302, .0503 - .0504, .1501 - .1502, .1601. The text in italics shown in Rules .0503 and .0504 were noticed in Volume 10, Issue 16, of the North Carolina Register.*

**Proposed Effective Date:** March 1, 1997

*A Public Hearing will be conducted at 1:30 p.m. on June 5, 1996 at the North Carolina Real Estate Commission, 1313 Navaho Drive, Raleigh, NC 27609.*

**Reason for Proposed Action:**

*21 NCAC 58A .0101 - To codify the requirement that all licensees must prominently display their license certificates in their offices.*

*21 NCAC 58A .0105 - To clarify that all licensees must comply with Paragraph (a) of this Rule.*

*21 NCAC 58A .0109 - To clarify that all licensees must comply with this Rule.*

*21 NCAC 58A .0110 - To eliminate the requirement that a broker practicing alone must file a broker-in-charge declaration under certain conditions.*

*21 NCAC 58A .0302 - To more clearly specify that license application fee for a real estate firm.*

*21 NCAC 58A .0503 - To replace the reference to "corporate broker license" with "firm license."*

*21 NCAC 58A .0504 - To codify the procedure in which a firm with an inactive license may activate its license.*

*21 NCAC 58A .1501 - To list the forms currently prescribed by the Commission for use in the license application process and in general brokerage operations.*

*21 NCAC 58A .1502 - To list the forms currently*



prescribed by the Commission for use in its education program.

**21 NCAC 58A .1601** - To clarify that all licensees must comply with the State Fair Housing Act.

**Comment Procedures:** Comments regarding the rules may be made orally or submitted in writing at the public hearing. Written comments not submitted at the hearing may be sent to or delivered to Mr. Stephen L. Fussell c/o North Carolina Real Estate Commission, PO Box 17100, Raleigh, NC 27619-7100, so as to be received by July 1, 1996.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds.

## SUBCHAPTER 58A - REAL ESTATE BROKERS AND SALESMEN

### SECTION .0100 - GENERAL BROKERAGE

#### .0101 DISPLAY OF LICENSE

(a) The license of a real estate brokerage firm, its principal broker, broker-in-charge and the license of each broker and salesman engaged in real estate activities at the office of the broker-in-charge shall be prominently displayed at such office.

(b) The annual license renewal pocket card issued by the Commission to each ~~salesman or broker, including corporate brokers,~~ licensee shall be retained by the licensee as evidence of licensure.

Authority G.S. 93A-3(c).

#### .0105 ADVERTISING

(a) **Blind Ads.** A licensee ~~broker~~ shall not advertise the sale, purchase, exchange, rent or lease of real estate, for another or others, in a manner indicating the offer to sell, purchase, exchange, rent, or lease is being made by the ~~broker's or salesman's licensee's~~ principal. Every such advertisement shall clearly indicate that it is the advertisement of a broker or brokerage firm and shall not be confined to publication of only a post office box number, telephone number, or street address.

(b) **Registration of Assumed Name.** In the event that any licensee shall advertise in any manner using a ~~firm name, corporate name, name~~ or an assumed name which does not set forth the surname of the licensee, he shall first notify the Commission in writing of such name and furnish the Commission with a copy of each certificate filed with the office of the county register of deeds in compliance with G.S. 66-68.

(c) **Authority to Advertise.**

(1) A salesman shall not advertise the sale, purchase, exchange, rent or lease of real estate for another or others without his broker's consent and without including in the

advertisement the name of the broker or firm with whom he is associated.

(2) A ~~broker~~ licensee shall not advertise or display a "for sale" or "for rent" sign on any real estate without the consent of the owner or his authorized agent.

(d) **Business names.** A ~~broker or a salesman~~ licensee shall not include the name of a salesman or an unlicensed person in the name of a sole proprietorship, partnership or non-corporate business formed for the purpose of real estate brokerage.

Authority G.S. 55B-5; 66-68; 93A-3(c).

### .0109 BROKERAGE FEES AND COMPENSATION

(a) A ~~broker or salesman~~ licensee shall not receive, either directly or indirectly, any commission, rebate or other valuable consideration from a vendor or a supplier of goods and services for an expenditure made on behalf of his principal in a real estate transaction without the written consent of the ~~broker's or salesman's licensee's~~ principal.

(b) A ~~broker or salesman~~ licensee shall not receive, either directly or indirectly, any commission, rebate or other valuable consideration for services which he recommends, procures, or arranges relating to a real estate transaction for any party, without full disclosure to such party; provided, however, that nothing in this Rule shall be construed to permit a ~~broker or salesman~~ licensee to accept any fee, kickback or other valuable consideration that is prohibited by the Real Estate Settlement Procedures Act of 1974 (12 USC 2601 et. seq.) or any rules and regulations promulgated by the United States Department of Housing and Urban Development pursuant to such Act.

(c) The Commission is not a Board of Arbitration and has no jurisdiction to settle disputes between parties concerning such matters as the rate of commissions, the division of commissions, pay of salesmen, and similar matters.

Authority G.S. 93A-3(c).

#### .0110 BROKER-IN-CHARGE

(a) ~~There shall be designated for each firm and branch office thereof one broker who shall assume responsibility at such office for:~~ Every real estate firm shall designate one broker to serve as the broker-in-charge at its principal office and each of the firm's branch offices. No broker shall be broker-in-charge of more than one office or branch office. A broker practicing alone shall designate himself as a broker-in-charge. Each broker-in-charge shall make written notification of his status as broker-in-charge to the Commission on a form prescribed by the Commission within 10 days following the broker's designation as

broker-in-charge. The broker-in-charge shall assume the responsibility at his office for:

- (1) the proper display of license certificates of the brokers and salesmen associated with or engaged on behalf of the firm at such office, and assuring that each licensee employed at the office has complied with Rules .0503, .0504 and .0506 of this Subchapter;
- (2) the proper notification to the Commission of any change of business address or trade name of the firm and the registration of any assumed business name adopted by the firm for its use;
- (3) the proper conduct of advertising by or in the name of the firm at such office;
- (4) the proper maintenance at such office of the trust or escrow account of the firm and the records pertaining thereto;
- (5) the proper retention and maintenance of records relating to transactions conducted by or on behalf of the firm at such office;
- (6) the proper supervision of salesmen associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter; and
- (7) the verification to the Commission of the experience of any salesman at such office who may be applying for licensure as a broker.

~~No broker shall be broker-in-charge of more than one office or branch office.~~

(b) When used in this Rule, the term:

- (1) "Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business; and
- (2) "Office" means any place of business where acts are performed for which a real estate license is required.

(c) A broker-in-charge must continually maintain his license on active status.

(d) Each broker-in-charge shall notify the Commission in writing of any change in his status as broker-in-charge within 10 days following the change. Within 10 days following termination of his supervisory responsibilities over any salesman, the broker-in-charge shall provide the salesman, in a form prescribed by the Commission, an accurate written statement regarding the number and type of properties listed, sold, bought, leased, or rented for others by the salesman while under the supervision of the broker-in-charge.

(e) A licensed real estate firm which demonstrates on a form prescribed by the Commission that it has qualified for licensure solely for the purpose of receiving compensation for brokerage services furnished by its principal broker through another firm, and that no person is affiliated with it other than its principal

broker, shall not be required to designate a broker-in-charge.

Authority G.S. 93A-3(c).

## SECTION .0300 - APPLICATION FOR LICENSE

### .0302 FILING AND FEES

(a) Properly completed applications must be received in the Commission's office or postmarked not later than the filing date established by the executive director for a scheduled examination and must be accompanied by the appropriate fee. Once the application has been filed and processed, the application fee may not be refunded.

(b) The following fees shall be charged:

- (1) application for new broker license \$30.00,
- (2) application for new salesman license ~~\$30.00-~~ \$30.00.
- (3) application for new firm license \$30.00.

Authority G.S. 93A-4(a),(d).

## SECTION .0500 - LICENSING

### .0503 LICENSE RENEWAL; PENALTY FOR OPERATING WHILE LICENSE EXPIRED

(a) All real estate ~~broker, salesman or corporate broker~~ licenses issued by the Commission under G.S. 93A, Article 1 shall expire on the 30th day of June following issuance. Any licensee desiring renewal of a license shall apply for renewal within 45 days prior to license expiration by submitting a renewal application on a form prescribed by the Commission and submitting with the application the required renewal fee of thirty dollars (\$30.00).

(b) ~~Beginning in 1995, any~~ Any person desiring to renew his license on active status shall, upon the second renewal of such license following initial licensure, and upon each subsequent renewal, have obtained all continuing education required by G.S. 93A-4A and Rule .1702 of the Subchapter.

(c) A person renewing a license on inactive status shall not be required to have obtained any continuing education in order to renew such license; however, in order to subsequently change his license from inactive status to active status, the licensee must satisfy the continuing education requirement prescribed in Rule .1703 of the Subchapter.

(d) Any person or ~~corporation~~ firm which engages in the business of a real estate broker or salesman while his or its license is expired is subject to the penalties prescribed in G.S. 93A.

Authority G.S. 93A-3(c); 93A-4(c),(d); 93A-4A; 93A-6.



**.0504 ACTIVE AND INACTIVE LICENSE STATUS**

(a) Except for licenses that have expired or that have been revoked, suspended or surrendered, all licenses issued by the Commission shall be designated as being either on active status or inactive status. The holder of a license on active status may engage in any activity requiring a real estate license and may be compensated for the provision of any lawful real estate brokerage service. The holder of a license on inactive status may not engage in any activity requiring a real estate license, including the referral for compensation of a prospective seller, buyer, landlord or tenant to another real estate licensee or any other party. A licensee holding a license on inactive status must renew such license and pay the prescribed license renewal fee in order to continue to hold such license. The Commission may take disciplinary action against a licensee holding a license on inactive status for any violation of G.S. 93A or any rule promulgated by the Commission, including the offense of engaging in an activity for which a license is required while a license is on inactive status.

(b) Upon initial licensure, a salesman's license shall be assigned by the Commission to inactive status and the license of a broker or ~~corporate broker~~ firm shall be assigned to active status. ~~The license of a broker, salesman or corporate broker~~ A license shall be assigned by the Commission to inactive status upon the written request of the licensee. A salesman's license shall be assigned by the Commission to inactive status when the salesman is not under the active, personal supervision of a broker-in-charge. A ~~corporate broker's~~ firm's license shall be assigned by the Commission to inactive status when the ~~corporation~~ firm does not have a principal broker. A broker or salesman shall also be assigned to inactive status if, upon the second renewal of his license following initial licensure, or upon any subsequent renewal, he has not satisfied the continuing education requirement described in Rule .1702 of this Subchapter.

(c) A salesman with an inactive license who desires to have such license placed on active status must comply with the procedures prescribed in Rule .0506(b) of this Section.

(d) A broker with an inactive license who desires to have such license placed on active status shall file with the Commission a request for license activation on a form prescribed by the Commission containing identifying information about the broker, ~~a list of Commission approved continuing education courses completed by the broker within the previous 30 days~~, a statement that the broker has satisfied the continuing education requirements prescribed by Rule .1703 of this Subchapter, the date of the request, and the signature of the broker. Upon the mailing or delivery of this form, the broker may engage in real estate brokerage

activities requiring a license; however, if the broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the broker shall immediately terminate his real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the broker is notified that he is not eligible for license activation due to a continuing education deficiency, the broker must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(e) A firm with an inactive license which desires to have its license placed on active status shall file with the Commission a request for license activation on a form prescribed by the Commission containing identifying information about the firm and its principal broker. If the principal broker has an inactive license, he must satisfy the requirements of Paragraph (d) of this Rule. Upon the mailing or delivery of the completed form by the principal broker, the firm may engage in real estate brokerage activities requiring a license; however, if the firm's principal broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the firm shall immediately terminate its real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the principal broker is notified that the firm is not eligible for license activation due to a continuing education deficiency on the part of the principal broker, the firm must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

Authority G.S. 93A-3(c); 93A-4(d); 93A-4A; 93A-6.

**SECTION .1500 - FORMS**

**.1501 LICENSING AND GENERAL BROKERAGE FORMS**

The following forms are required by the Commission for use in filing and submitting information with respect to license applications and general brokerage operations:

- (1) Application for Real Estate License;
- (2) Application for a License to be Issued to a ~~Corporation; Firm;~~
- (3) ~~Supervision of Salesmen~~ Notification; Request To Activate Broker Or Salesman License, Notification Of Salesman Supervision, Notification Of Change Of Broker's Business Address;
- (4) Broker-in-Charge Declaration;
- (5) Application for Real Estate License Renewal;



- (6) Consent to Service of Process and Pleadings;
- (7) Affidavit of ~~Residency~~ Residency;
- (8) Broker-In-Charge Declaration Exemption; and
- (9) Disclosure to Buyer from Seller's Agent or Subagent.

Authority G.S. 93A-4(d); 150B-11(1).

#### .1502 FORMS FOR EDUCATION PROGRAM

The following forms are required by the Commission for use in filing and submitting information with respect to ~~school~~ applications to conduct real estate pre-licensing and continuing education courses:

- (1) Application for School Approval to Conduct Real Estate Pre-licensing Courses;
- (2) Private Real Estate School License Application;
- (3) Private Real Estate School Performance Bond;
- (4) Supplement to Private Real Estate School License Application for Corporation Applicants;
- (5) Consent to Service of Process and Pleadings for Nonresident ~~Applicants for a Private Real Estate School License~~ Education Providers;
- (6) Application for Instructor ~~Approval~~ Approval;
- (7) Continuing Education Update Course Sponsor Application;
- (8) Continuing Education Update Course Instructor Application;
- (9) Continuing Education Elective Course Sponsor Application;
- (10) Continuing Education Elective Course Application; and
- (11) Continuing Education Instructor Qualifications Statement.

Authority G.S. 93A-4(d); 150B-11(1).

#### SECTION .1600 - DISCRIMINATORY PRACTICES PROHIBITED

##### .1601 FAIR HOUSING

Conduct by ~~brokers and salesmen~~ a licensee which violates the provisions of the State Fair Housing Act constitutes improper conduct in violation of G.S. 93A-6(a)(10).

Authority G.S. 41A-4; 41A-5; 41A-6; 93A-3(c).

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#### CHAPTER 63 - CERTIFICATION BOARD FOR SOCIAL WORK

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Certification Board for Social Work intends to amend rule cited as 21 NCAC 63 .0306.

Proposed Effective Date: April 1, 1997

#### Instructions on How to Demand a Public Hearing (must be requested in writing within 15 days of notice):

To request a public hearing submit a written request to the attention of Warren F. Morrison, Admin. Coordinator, NCCBSW, PO Box 1043, Asheboro, NC 27204 within 15 days after the publication of this notice.

Reason for Proposed Action: To comply with S.L. 1995, c. 344; G.S. 90B-6. (f) as amended.

Comment Procedures: Written comments will be accepted at NCCBSW, PO Box 1043, Asheboro, NC 27204, Attention: Warren F. Morrison, through May 31, 1996.

Fiscal Note: This Rule does not affect the expenditures or revenues of state or local government funds.

#### SECTION .0300 - EXAMINATIONS

##### .0306 EXAMINATION FEES

(a) An examination fee of ~~one hundred dollars~~ fifteen dollars (\$15.00) plus the cost of the examination to the Board will be assessed for administration and processing of any written examination.

(b) An applicant who fails to appear for an examination shall be assessed a fee of ~~one hundred dollars (\$100.00)~~ fifteen dollars (\$15.00) plus the cost of the examination to the Board in order to take the examination at a later date.

Authority G.S. 90B-6.

The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the *North Carolina Register* serves as a notice of rule-making proceedings for a permanent rule that does not differ substantially from the published temporary rule.

**TITLE 13 - DEPARTMENT OF LABOR**

**Rule-making Agency:** *NCDOL, Division of Occupational Safety & Health*

**Rule Citation:** *13 NCAC 07F .0101*

**Effective Date:** *April 1, 1996*

**Findings Reviewed by the Codifier of Rules:** *Approved*

**Authority for the rule-making:** *G.S. 95-131; 95-133; 150B-21.1*

**Reason for Proposed Action:** *This Rule will require employers to make changes to the level of air contaminants to which their employees are exposed if working with specified substances. Technical errors have been found in the newly approved "Limits for Air Contaminants" table which would create requirements that are technologically infeasible or would create the potential for a serious health hazard to exposed employees. There is an immediate need to change the errors prior to the April 1, 1996 effective date.*

**Comment Procedures:** *Written comments will be accepted on the proposed corrections for 60 days after publication in the NC Register. Comments should be provided to Jill F. Cramer, Rule-making Coordinator, NCDOL/OSHA, 319 Chapanoke Road, Suite 105, Raleigh, NC 27603-3432.*

**CHAPTER 7 - OFFICE OF OCCUPATIONAL SAFETY AND HEALTH**

**SUBCHAPTER 7F - STANDARDS**

**SECTION .0100 - GENERAL INDUSTRY STANDARDS**

**.0101 GENERAL INDUSTRY**

(a) The provisions for the Occupational Safety and Health Standards for General Industry, Title 29 of the Code of Federal Regulations Part 1910, are incorporated by reference except as follows:

- (1) Subpart H - Hazardous Materials, 29 CFR 1910.120, Hazardous waste operations and emergency response, §1910.120(q)(6) is amended by adding a new level of training:

"(vi) First responder operations plus level. First responders at operations plus level are individuals who respond to hydrocarbon fuel tank leaks where the leaking tanks contain a hydrocarbon fuel which is used to propel the vehicle on which the tank is located. Only those vehicles designed for highway use or those used for industrial, agricultural or construction purposes are covered. First responders at the operations plus level shall have received at least training equal to first responder operations level and, in addition, shall receive training or have had sufficient experience to objectively demonstrate competency in the following areas and the employer shall so certify:

- (A) Know how to select and use proper specialized personal protective equipment provided to the first responder at operations plus level;
- (B) Understand basic hazardous materials terms as they pertain to hydrocarbon fuels;
- (C) Understand hazard and risk assessment techniques that pertain to gasoline, diesel fuel, propane and other hydrocarbon fuels;
- (D) Be able to perform control, containment, or confinement operations for gasoline, diesel fuel, propane and other hydrocarbon fuels within the capabilities of the available resources and personal protective equipment; and
- (E) Understand and know how to implement decontamination procedures for hydrocarbon fuels."

- (2) Subpart I -- Personal Protective Equipment -- 29 CFR 1910.132, General requirements, is amended at 29 CFR 1910.132(b) to read:

"(b) *Equipment.* (1) *Employer-provided equipment.* It is the responsibility of the employer to provide, at no cost to the employee, all personal protective equipment which the employee does not wear off the jobsite for use off the job.

(2) *Employee-owned equipment.* Where employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment."

- (3) Subpart R -- Special Industries -- incorporation by reference of final rule for 29 CFR 1910.269, Electric Power Generation, Transmission, and Distribution, including Appendices A through E, published in 59 FR (January 31, 1994) pages 4437 - 4475, all typographical and grammatical corrections to 1910.269 as published in 59 FR (June 30, 1994) pages 33660 - 33664, and the amendment to 1910.269(g)(2)(i) as published in 59 FR (August 9, 1994) page 40729, except that 29 CFR 1910.269(g)(2)(v) is amended to read:

- "(v) Fall arrest equipment, work positioning equipment, or travel restricting equipment shall be used by employees working at elevated locations more than 4 feet (1.2 m) above the ground on poles, towers or similar structures if other fall protection has not been provided. A fall protection system as defined in 29 CFR 1926, Subpart M - *Fall Protection*, is required to be used by all employees when ascending, descending or changing locations on poles, towers or similar structures. However, the use of non-locking snap hooks with any fall protection system is prohibited as of July 1, 1995. Qualified employees may free climb wood poles if the employer can ensure (1) that the employee is able to comfortably and safely grip the pole with both hands while climbing, (2) that the pole is free from attachments or any configurations of attachments that will materially impair the ability of a qualified employee to safely free climb the pole, (3) that the pole is otherwise free from impediments, contaminants or conditions of any type, including but not limited to ice, high winds or chemical treatments which materially impair the ability of a qualified employee to safely free climb the pole, and (4) that the employee is able to climb such structures without material physical impairments including over-exertion, lack of sleep or other physical stresses."

29 CFR 1910.269 as amended above is effective January 1, 1995, except that employers have until July 1, 1995, to implement the use of locking snap hooks, and employers have until January 1, 1996, to design and implement a system of fall protection for use by employees while ascending, descending or changing locations on towers. Also, 29 CFR 1910.269(a)(2) *Training* is effective January 31, 1995, and 29 CFR 1910.269(v)(11)(xii) is effective February 1, 1996.

- (4) Subpart Z -- Toxic and Hazardous Substances:

- (A) 29 CFR 1910.1000 Air Contaminants:

Revision of 1910.1000 (a) and (f), removal of Table Z-2 and Table Z-3 and re-adoption of revised permissible exposure limits as Table Z-1 as originally published in 54 FR (January 19, 1989) pages 2923 - 2958 as follows:

" §1910.1000 Air contaminants.

An employee's exposure to any substance listed in Table Z-1 of this section shall be limited in accordance with the requirements of the following paragraphs and sections.

(a) **Table Z-1.(1) Substances with limits designated by "C" - Ceiling Limits.** An employee's exposure to any substance in Table Z-1, the exposure limit of which is followed by a "C", shall at no time exceed the exposure limit given for that substance in Table Z-1.

(2) **Current permissible exposure limits.** An employee's exposure to any substance listed in Table Z-1 shall not exceed the Time Weighted Average (TWA), Short Term Exposure Limit (STEL) and Ceiling Limit specified for that substance in Table Z-1 under the Current PEL column.

(3) **Skin Designation.** To prevent or reduce skin absorption, an employee's skin exposure to substances listed in Table Z-1 with an "X" in the Skin Designation column following the substance name shall be prevented or reduced to the extent necessary in the circumstances through the use of gloves, coveralls, goggles, or other appropriate personal protective equipment, engineering controls or work practices.

(4) **Definitions.** The following definitions are applicable to the Current PEL column of Table Z-1:

(i) Time weighted average (TWA) is the employee's average airborne exposure in any 8-hour work shift of a 40-hour work week which shall not be exceeded.

(ii) Short term exposure limit (STEL) is the employee's 15-minute time weighted average exposure which shall not be exceeded at any time during a work day unless another time limit is specified in a parenthetical notation below the limit. If another time period is specified, the time weighted average exposure over that time period shall not be exceeded at any time during the working day.

(iii) Ceiling is the employee's exposure which shall not be exceeded during any part of the work day. If instantaneous monitoring is not feasible, then the ceiling shall be assessed as a 15-minute time weighted average exposure which shall not be exceeded at any time over a working day.



(5) *Additional Definitions.* The terms "substance," "air contaminant," and "material" are equivalent in meaning for 29 CFR 1910.1000.

(b) and (c) are reserved.

(d) and (e) are not amended.

(f) *Effective dates.* (1) The effective date for the permissible exposure limits specified in the following Current PEL column of Table Z-1 is April 1, 1996.

### LIMITS FOR AIR CONTAMINANTS

NOTE: Because of the length of the table, explanatory Footnotes applicable to all substances are given below.

Footnote (1) The PELs are 8-hour TWAs unless otherwise noted; a (C) designation denotes a ceiling limit. They are to be determined from breathing-zone air samples.

Footnote (2) Parts of vapor or gas per million parts of contaminated air by volume at 25 degrees C and 760 torr.

Footnote (3) Milligrams of substance per cubic meter of air. When entry is in this column only, the value is exact; when listed with a ppm entry, it is approximate.

Footnote (4) The CAS number is for information only. Enforcement is based on the substance name.

Footnote (5) Regarding Styrene Only: OSHNC recognizes that the permissible exposure limits for styrene may not be achievable solely through engineering and work practice controls for boat-building and operations comparable to boat building. Comparable operations are those that (1) employ the manual layup and sprayup process, (2) the manufactured items that utilize the same equipment and technology as that found in boat building, and (3) the same considerations of large part size, configuration interfering with air-flow control techniques, and resin usage apply. Examples of operations comparable to boat building would include the manufacture of large above-ground or below-ground storage tanks, large parts for recreational vehicles, and large duct work. Because it is impossible to define in advance every manual layup and sprayup process for which compliance may not be feasible solely through engineering and work practice controls, some guidelines concerning part size and configuration issues are necessary. The primary question for manual layup and sprayup operations is whether the part's size and configuration interfere with normal air-flow techniques. For operations making parts (such as tubs and vanities) that do not meet the guidelines described, beginning April 1, 1996, the hierarchy of controls specified in 29 CFR 1910.1000(e) will apply to reduce styrene exposures to the new 50 ppm TWA and 100 ppm STEL. In consequence, the burden of proof will be on the employer to show that engineering and work practice controls are not feasible for specific operations. However, with respect to boat-building operations the burden of proof would be on OSHNC to prove that the level could be attained solely through engineering and work practice controls.

Footnote (6) Regarding Carbon Dioxide only: no change was made to the PEL.

Footnote (7) Regarding Subtilisins only: this substance is not included in Table Z-1 below.

**TABLE Z-1. - LIMITS FOR AIR CONTAMINANTS**

SUBSTANCE	CAS NUMBER	FORMER PEL	CURRENT PEL	SKIN DSG
Acetaldehyde	75-07-0	200 ppm TWA	100 ppm TWA 150 ppm STEL	
Acetic acid	64-19-7	10 ppm TWA	10 ppm TWA	
Acetic anhydride	108-24-7	5 ppm TWA	5 ppm TWA (C)	
Acetone	67-64-1	1000 ppm TWA	750 ppm TWA 1000 ppm STEL	
Acetonitrile	75-05-8	40 ppm TWA	40 ppm TWA 60 ppm STEL	
2-Acetylaminofluorene see 1910.1014	53-96-3			

**TEMPORARY RULES**

Acetylene dichloride see 1,2-Dichloroethylene				
Acetylene tetrabromide	79-27-6	1 ppm TWA	1 ppm TWA	
Acetylsalicylic acid (Aspirin)	50-78-2	No former PEL	5 mg/m <sup>3</sup> TWA	
Acrolein	107-02-8	0.1 ppm TWA	0.1 ppm TWA 0.3 ppm STEL	
Acrylamide	79-06-1	0.3 mg/m <sup>3</sup> TWA	0.3 mg/m <sup>3</sup> TWA	X
Acrylic acid	79-10-7	No former PEL	10 ppm TWA	X
Acrylonitrile; see 1910.1045.	107-13-1			
Aldrin	309-00-2	0.25 mg/m <sup>3</sup> TWA	0.25 mg/m <sup>3</sup> TWA	X
Allyl alcohol	107-18-6	2 ppm TWA	2 ppm TWA 4 ppm STEL	X
Allyl chloride	107-05-1	1 ppm TWA	1 ppm TWA 2 ppm STEL	
Allyl glycidyl ether (AGE)	106-92-3	10 ppm (C)	5 ppm TWA 10 ppm STEL	
Allyl propyl disulfide	2179-59-1	2 ppm TWA	2 ppm TWA 3 ppm STEL	
alpha-Alumina Total Dust Respirable Fraction	1344-28-1	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Aluminum (as Al) Metal Total dust Respirable fraction Pyropowders Welding fumes Alkyls	7429-90-5     7429-90-5	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA 2 mg/m <sup>3</sup> TWA	
Aluminum (soluble salts)	7429-90-5		2 mg/m <sup>3</sup> TWA	
4-Aminodiphenyl; see 1910.1011	92-67-1			
2-Aminoethanol; see Ethanolamine				
2-Aminopyridine	504-29-0	<del>0.5 mg/m<sup>3</sup>- TWA</del> 0.5 ppm TWA	<del>0.5 mg/m<sup>3</sup>-TWA</del> 0.5 ppm TWA	
Amitrol	61-82-5	No former PEL	0.2 mg/m <sup>3</sup> TWA	
Ammonia	7664-41-7	50 ppm TWA	35 ppm STEL	



**TEMPORARY RULES**

Ammonium chloride fume	12125-02-9	No former PEL	10 mg/m <sup>3</sup> TWA 20 mg/m <sup>3</sup> STEL	
Ammonium sulfamate Total dust Respirable fraction	7773-06-0	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
<i>n</i> -Amyl acetate	628-63-7	100 ppm TWA	100 ppm TWA	
<i>sec</i> -Amyl acetate	626-38-0	125 ppm TWA	125 ppm TWA	
Aniline and homologs	62-53-3	5 ppm TWA	2 ppm TWA	X
Anisidine ( <i>o</i> -, <i>p</i> -isomers).	29191-52-4	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
Antimony and compounds (as Sb)	7440-36-0	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	
ANTU (Alpha naphthylthiourea)	86-88-4	0.3 mg/m <sup>3</sup> TWA	0.3 mg/m <sup>3</sup> TWA	
Arsenic, inorganic compounds (as As); see 1910.1018	Varies with compound			
Arsenic, organic compounds (as As)		0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	
Arsine	7784-42-1	0.05 mg/m <sup>3</sup> TWA	0.05 ppm TWA	
Asbestos; see 1910.1001				
Atrazine	1912-24-9	No former PEL	5 mg/m <sup>3</sup> TWA	
Azinphos-methyl	86-50-0	0.2 mg/m <sup>3</sup> TWA	0.2 mg/m <sup>3</sup> TWA	X
Barium, soluble compounds (as Ba)	7440-39-3	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	
Barium sulfate Total dust Respirable fraction	7727-43-7	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Benomyl Total dust Respirable fraction	17804-35-2	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Benzene; See 1910.1028 See Table Z-2 for the limits applicable in the operations or sectors excluded in 1910.1028(d)	71-43-2			
Benzidine; See 1910.1010	92-87-5			

**TEMPORARY RULES**

p-Benzoquinone; see Quinone.				
Benzo(a)pyrene; see Coal tar pitch volatiles				
Benzoyl peroxide	94-36-0	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Benzyl chloride	100-44-7	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Beryllium and beryllium compounds (as Be)	7440-41-7	Table Z-2	0.002 ppm TWA 0.005 ppm STEL (30 minute) 0.025 ppm (C)	
Biphenyl; see Diphenyl.				
Bismuth telluride, Undoped Total dust Respirable fraction	1304-82-1	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Bismuth telluride, Se-doped	1304-82-1	No former PEL	5 mg/m <sup>3</sup> TWA	
Borates, tetra (anhydr)	1330-43-4	No former PEL	10 mg/m <sup>3</sup> TWA	
Borates, tetra (decahyd)	1303-96-43	No former PEL	10 mg/m <sup>3</sup> TWA	
Borates, tetra (pentahyd)	12179-04-3	No former PEL	10 mg/m <sup>3</sup> TWA	
Boron oxide Total dust Respirable fraction	1303-86-2	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Boron tribromide	10294-33-4	No former PEL	1 ppm (C)	
Boron trifluoride	7637-07-2	1 ppm TWA (C)	1 ppm TWA (C)	
Bromacil	314-40-9	No former PEL	1 ppm TWA	
Bromine	7726-95-6	0.1 ppm TWA	0.1 ppm TWA 0.3 ppm STEL	
Bromine pentafluoride	7789-30-2		0.1 ppm TWA	
Bromoform	75-25-2	0.5 ppm TWA	0.5 ppm TWA	X
Butadiene (1,3-Butadiene)	106-99-0	1000 ppm TWA	1000 ppm TWA	
Butane	106-97-8	No former PEL	800 ppm TWA	
Butanethiol; See Butyl mercaptan				
2-Butanone (Methyl ethyl ketone)	78-93-3	200 ppm TWA	200 ppm TWA 300 ppm STEL	
2-Butoxyethanol	111-76-2	50 ppm TWA	25 ppm TWA	X

**TEMPORARY RULES**

<i>n</i> -Butyl-acetate	123-86-4	150 ppm TWA	150 ppm TWA 200 ppm STEL	
<i>sec</i> -Butyl acetate	105-46-4	200 ppm TWA	200 ppm TWA	
<i>tert</i> -Butyl acetate	540-88-5	200 ppm TWA	200 ppm TWA	
<i>n</i> -Butyl acrylate	141-32-2	No former PEL	10 ppm TWA	
<i>n</i> -Butyl alcohol	71-36-3	100 ppm TWA	50 ppm (C)	X
<i>sec</i> -Butyl alcohol	78-92-2	150 ppm TWA	100 ppm TWA	
<i>tert</i> -Butyl alcohol	75-65-0	100 ppm TWA	100 ppm TWA 150 ppm STEL	
Butylamine	109-73-9	5 ppm (C)	5 ppm (C)	X
<i>tert</i> -Butyl chromate (as CrO(3))	1189-85-1	0.1 mg/m <sup>3</sup> (C)	0.1 mg/m <sup>3</sup> (C)	X
<i>n</i> -Butyl glycidyl ether (BGE)	2426-08-6	50 ppm TWA	25 ppm TWA	
<i>n</i> -Butyl lactate	138-22-7		5 ppm TWA	
<i>n</i> -Butyl mercaptan	109-79-5	10 ppm TWA	0.5 ppm TWA	
Butyl mercaptan	109-79-5	10 ppm TWA	0.5 ppm TWA	
<i>o</i> - <i>sec</i> -Butylphenol	89-72-5	No former PEL	5 ppm TWA	X
<i>p</i> - <i>tert</i> -Butyltoluene	98-51-1	10 ppm TWA	10 ppm TWA 20 ppm STEL	
Cadmium (as Cd); see 1910.1027	7440-43-9			
Calcium Carbonate Total dust Respirable fraction	1317-65-3	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Calcium cyanamide	156-62-7	No former PEL	0.5 mg/m <sup>3</sup> TWA	
Calcium hydroxide	1305-62-0	No former PEL	5 mg/m <sup>3</sup> TWA	
Calcium oxide	1305-78-8	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Calcium silicate Total dust Respirable fraction	1344-95-2	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Calcium sulfate Total dust Respirable fraction	7778-18-9	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Camphor, synthetic	76-22-2	2 mg/m <sup>3</sup> TWA	2 mg/m <sup>3</sup> TWA	
Caprolactam (dust)	105-60-2	No former PEL	1 mg/m <sup>3</sup> TWA 3 mg/m <sup>3</sup> STEL	

**TEMPORARY RULES**

Caprolactam (vapor)	105-60-2	No former PEL	5 ppm TWA 10 ppm STEL	
Captafol (Difolatan)	2425-06-1	No former PEL	0.1 mg/m <sup>3</sup> TWA	
Captan	133-06-2	No former PEL	5 mg/m <sup>3</sup> TWA	
Carbaryl (Sevin)	63-25-2	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Carbofuran	1563-66-2	No former PEL	0.1 mg/m <sup>3</sup> TWA	
Carbon black	1333-86-4	3.5 mg/m <sup>3</sup> TWA	3.5 mg/m <sup>3</sup> TWA	
Carbon dioxide	124-38-9	5000 ppm TWA	5000 ppm TWA	
Carbon disulfide	75-15-0	Table Z-2	4 ppm TWA 12 ppm TWA	X
Carbon monoxide	630-08-0	50 ppm TWA	35 ppm TWA 200 ppm (C)	
Carbon tetrabromide	558-13-4	No former PEL	0.1 ppm TWA 0.3 ppm STEL	
Carbon tetrachloride	56-23-5	Table Z-2	2 ppm TWA	
Carbonyl fluoride	353-50-4	No former PEL	2 ppm TWA 5 ppm STEL	
Catechol (Pyrocatechol)	120-80-9	No former PEL	5 ppm TWA	X
Cellulose Total dust Respirable fraction	9004-34-6	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Cesium hydroxide	21351-79-1	No former PEL	2 mg/m <sup>3</sup> TWA	
Chlordane	57-74-9	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
Chlorinated camphene	8001-35-2	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA 1 mg/m <sup>3</sup> STEL	X
Chlorinated diphenyl oxide	55720-99-5	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	
Chlorine	7782-50-5	1 ppm (C)	0.5 ppm TWA 1.0 ppm STEL	
Chlorine dioxide	10049-04-4	0.1 ppm TWA	0.1 ppm TWA 0.3 ppm STEL	
Chlorine trifluoride	7790-91-2	0.1 ppm (C)	0.1 ppm (C)	
Chloroacetaldehyde	107-20-0	1 ppm (C)	1 ppm (C)	
α-Chloroacetophenone (Phenacyl chloride)	532-27-4	0.05 ppm TWA	0.05 ppm TWA	
Chloroacetyl chloride	79-04-9	No former PEL	0.05 ppm TWA	
Chlorobenzene	108-90-7	75 ppm TWA	75 ppm TWA	

**TEMPORARY RULES**

<i>o</i> -Chlorobenzylidene malononitrile	2698-41-1	0.05 ppm TWA	0.05 ppm (C)	X
Chlorobromomethane	74-97-5	200 ppm TWA	200 ppm TWA	
2-Chloro-1,3-butadiene; See <i>beta</i> -Chloroprene				
Chlorodifluoromethane	75-45-6	No former PEL	1000 ppm TWA	
Chlorodiphenyl (42% Chlorine)(PCB)	53469-21-9	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	X
Chlorodiphenyl (54% Chlorine)(PCB)	11097-69-1	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
1-Chloro-2, 3-epoxypropane; See Epichlorohydrin				
2-Chloroethanol; See Ethylene chlorohydrin				
Chloroethylene; see Vinyl chloride.				
Chloroform (Trichloromethane)	67-66-3	50 ppm (C)	2 ppm TWA	
bis-Chloromethyl ether; see 1910.1008	542-88-1			
Chloromethyl methyl ether; see 1910.1006	107-30-2			
1-Chloro-1-nitropropane	600-25-9	20 ppm TWA	2 ppm TWA	
Chloropentafluoroethane	76-15-3	No former PEL	1000 ppm TWA	
Chloropicrin	76-06-2	0.1 ppm TWA	0.1 ppm TWA	
<i>beta</i> -Chloroprene	126-99-8	25 ppm TWA	10 ppm TWA	X
<i>o</i> -Chlorostyrene	2039-87-4	No former PEL	50 ppm TWA 75 ppm STEL	
<i>o</i> -Cholorotoluene	95-49-8	No former PEL	50 ppm TWA	
2-Chloro-6 (trichloromethyl) pyridine Total dust Respirable fraction	1929-82-4	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Chlorpyrifos	2921-88-2	No former PEL	0.2 mg/m <sup>3</sup> TWA	X
Chromic acid and chromates (as CrO(3))	Varies with compound	Table Z-2	0.1 ppm (C)	



**TEMPORARY RULES**

Chromium (II) compounds (as Cr)	7440-47-3	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	
Chromium (III) compounds (as Cr)	7440-47-3	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	
Chromium metal and insol. salts (as Cr)	7440-47-3	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	
Chrysene; see Coal tar pitch volatiles				
Clopidol Total dust Respirable fraction	2971-90-6	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Coal dust (less than 5% SiO <sub>2</sub> ), respirable fraction		Table Z-3	2 mg/m <sup>3</sup> TWA	
Coal dust (greater than or equal to 5% SiO <sub>2</sub> ), respirable fraction		Table Z-3	0.1 mg/m <sup>3</sup> TWA	
Coal tar pitch volatiles (benzene soluble fraction), anthracene, BaP, phenanthrene, acridine, chrysene, pyrene.	65966-93-2	0.2 mg/m <sup>3</sup> TWA	0.2 mg/m <sup>3</sup> TWA	
Cobalt, metal; dust and fume (as Co)	7440-48-4	0.1 mg/m <sup>3</sup> TWA	0.05 mg/m <sup>3</sup> TWA	
Cobalt carbonyl (as Co)	10210-68-1	No former PEL	0.1 mg/m <sup>3</sup> TWA	
Cobalt hydrocarbonyl (as Co)	16842-03-8	No former PEL	0.1 mg/m <sup>3</sup> TWA	
Coke oven emissions; see 1910.1029				
Copper Fume (as Cu) Dusts and mists (as Cu)	7440-50-8	0.1 mg/m <sup>3</sup> TWA 1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA 1 mg/m <sup>3</sup> TWA	
Cotton dust, raw, (e); See 1910.1043		The time-weighted average applies to the cotton waste processing operation of waste recycling (blending, sorting, cleaning and willowing) and garnetting.	The time-weighted average applies to the cotton waste processing operation of waste recycling (blending, sorting, cleaning and willowing) and garnetting.	

**TEMPORARY RULES**

Crag herbicide (Sesone) Total dust Respirable fraction.	136-78-7	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Cresol, all isomers	Varies with compound	5 ppm TWA	5 ppm TWA	X
Crotonaldehyde	123-73-9 4170-30-3	2 ppm TWA	2 ppm TWA	
Cruformate	299-86-5	No former PEL	5 mg/m <sup>3</sup> TWA	
Cumene	98-82-8	50 ppm TWA	50 ppm TWA	X
Cyanamide	420-04-2		2 mg/m <sup>3</sup> TWA	
Cyanides (as Cn)	Varies with compound	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Cyanogen	460-19-5	No former PEL	10 ppm TWA	
Cyanogen chloride	506-77-4	No former PEL	0.3 ppm (C)	
Cyclohexane	110-82-7	300 ppm TWA	300 ppm TWA	
Cyclohexanol	108-93-0	50 ppm TWA	50 ppm TWA	X
Cyclohexanone	108-94-1	50 ppm TWA	25 ppm TWA	
Cyclohexene	110-83-8	300 ppm TWA	300 ppm TWA	
Cyclohexylamine	108-91-8	No former PEL	10 ppm TWA	
Cyclonite	121-82-4	No former PEL	1.5 mg/m <sup>3</sup> TWA	X
Cyclopentadiene	542-92-7	75 ppm TWA	75 ppm TWA	
Cyclopentane	287-92-3	No former PEL	600 ppm TWA	
Cyhexatin	13121-70-5	No former PEL	5 mg/m <sup>3</sup> TWA	
2,4-D (Dichlorophen- oxyacetic acid)	94-75-7	10 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA	
Decaborane	17702-41-9	0.05 ppm TWA	0.05 ppm TWA 0.15 ppm STEL	X
Demeton (Systox)	8065-48-3	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
Diacetone alcohol (4-Hydroxy-4-methyl- 2-pentanone)	123-42-2	50 ppm TWA	50 ppm TWA	
1,2-Diaminoethane; see Ethylenediamine				
Diazinon	333-41-5	No former PEL	0.1 mg/m <sup>3</sup> TWA	X
Diazomethane	334-88-3	0.2 ppm TWA	0.2 ppm TWA	

**TEMPORARY RULES**

Diborane	19287-45-7	0.1 ppm TWA	0.1 ppm TWA	
1,2-Dibromo-3-chloropropane (DBCP) see 1910.1044	96-12-8			
1,2-Dibromoethane; see Ethylene dibromide				
2-N-Dibutylaminoethanol	102-81-8	No former PEL	2 ppm TWA	
Dibutyl phosphate	107-66-4	1 ppm TWA	1 ppm TWA 2 ppm STEL	
Dibutyl phthalate	84-74-2	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Dichloroacetylene	7572-29-4	No former PEL	0.1 ppm (C)	
<i>o</i> -Dichlorobenzene	95-50-1	50 ppm (C)	50 ppm (C)	
<i>p</i> -Dichlorobenzene	106-46-7	75 ppm TWA	75 ppm TWA 110 ppm STEL	
3,3'-Dichlorobenzidine; see 1910.1007	91-94-1			
Dichlorodifluoromethane	75-71-8	1000 ppm TWA	1000 ppm TWA	
1,3-Dichloro-5,5-dimethyl hydantoin	118-52-5	0.2 mg/m <sup>3</sup> TWA	0.2 mg/m <sup>3</sup> TWA 0.4 mg/m <sup>3</sup> STEL	
Dichlorodiphenyltri-chloroethane (DDT)	50-29-3	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	X
1,1-Dichloroethane	75-34-3	100 ppm TWA	100 ppm TWA	
1,2-Dichloroethane; see Ethylene dichloride				
1,2-Dichloroethylene	540-59-0	200 ppm TWA	200 ppm TWA	
Dichloroethyl ether	111-44-4	15 ppm (C)	5 ppm TWA 10 ppm STEL	
Dichloromethane; see Methylene chloride				
Dichloromonofluoro-methane	75-43-4	1000 ppm TWA	10 ppm TWA	
1,1-Dichloro -1-nitroethane	594-72-9	10 ppm (C)	2 ppm TWA	
1,2-Dichloropropane; see Propylene dichloride				
1,3 Dichloropropene	542-75-6	No former PEL	1 ppm TWA	X
2,2-Dichloropropionic acid	75-99-0	No former PEL	1 ppm TWA	
Dichlorotetrafluoro-ethane	76-14-2	1000 ppm TWA	1000 ppm TWA	

**TEMPORARY RULES**

Dichlorvos (DDVP)	62-73-7	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	X
Dicrotophos	141-66-2	No former PEL	0.25 mg/m <sup>3</sup> TWA	X
Dicyclopentadiene	77-73-6	No former PEL	5 ppm TWA	
Dicyclopentadienyl iron Total dust Respirable fraction	102-54-5	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Dieldrin	60-57-1	0.25 mg/m <sup>3</sup> TWA	0.25 mg/m <sup>3</sup> TWA	X
Diethanolamine	111-42-2	No former PEL	3 ppm TWA	
Diethylamine	109-89-7	25 ppm TWA	10 ppm TWA 25 ppm STEL	
2-Diethylaminoethanol	100-37-8	10 ppm TWA	10 ppm TWA	X
Diethyl ether; see Ethyl ether				
Diethyl ketone	96-22-0	No former PEL	200 ppm TWA	
Diethyl phthalate	84-66-2	No former PEL	5 mg/m <sup>3</sup> TWA	
Diethylene triamine	111-40-0	No former PEL	1 ppm TWA	
Difluorodibromomethane	75-61-6	100 ppm TWA	100 ppm TWA	
Diglycidyl ether (DGE)	2238-07-5	0.5 ppm (C)	0.1 ppm TWA	
Dihydroxybenzene; see Hydroquinone				
Diisobutyl ketone	108-83-8	50 ppm TWA	25 ppm TWA	
Diisopropylamine	108-18-9	5 ppm TWA	5 ppm TWA	X
4-Dimethylaminoazo- benzene; see 1910.1015	60-11-7			
Dimethoxymethane; see Methylal				
Dimethyl acetamide	127-19-5	10 ppm TWA	10 ppm TWA	X
Dimethylamine	124-40-3	10 ppm TWA	10 ppm TWA	
Dimethylaminobenzene; see Xylidine				
Dimethylaniline (N,N-Dimethylaniline)	121-69-7	5 ppm TWA	5 ppm TWA 10 ppm STEL	X X
Dimethylbenzene; see Xylene				



**TEMPORARY RULES**

Dimethyl-1,2-dibromo-2-dichloroethyl phosphate	300-76-5	3 mg/m <sup>3</sup> TWA	3 mg/m <sup>3</sup> TWA	X
Dimethylformamide	68-12-2	10 ppm TWA	10 ppm TWA	X
2,6-Dimethyl-4-heptanone; see Diisobutyl ketone				
1,1-Dimethylhydrazine.	57-14-7	0.5 ppm TWA	0.5 ppm TWA	X
Dimethylphthalate	131-11-3	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Dimethyl sulfate	77-78-1	1 ppm TWA	0.1 ppm TWA	X
Dinitolmide (3,5-dinitro- <i>o</i> -toluamide)	148-01-6	No former PEL	5 mg/m <sup>3</sup> TWA	
Dinitrobenzene (all isomers) (ortho) (meta) (para)	528-29-0 99-65-0 100-25-4	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	X
Dinitro- <i>o</i> -cresol	534-52-1	0.2 mg/m <sup>3</sup> TWA	0.2 mg/m <sup>3</sup> TWA	X
Dinitrotoluene	25321-14-6	1.5 mg/m <sup>3</sup> TWA	1.5 mg/m <sup>3</sup> TWA	X
Dioxane (Diethylene dioxide)	123-91-1	100 ppm TWA	25 ppm TWA	X
Dioxathion	78-34-2	No former PEL	0.2 mg/m <sup>3</sup> TWA	X
Diphenyl (Biphenyl)	92-52-4	0.2 ppm TWA	0.2 ppm TWA	
Diphenylamine	122-39-4	No former PEL	10 mg/m <sup>3</sup> TWA	
Diphenylmethane diisocyanate; see Methylene bisphenyl isocyanate				
Dipropyl ketone	123-19-3	No former PEL	50 ppm TWA	
Dipropylene glycol methyl ether	34590-94-8	100 ppm TWA	100 ppm TWA 150 ppm STEL	X
Diquat	85-00-7	No former PEL	0.5 mg/m <sup>3</sup> TWA	
Di- <i>sec</i> octyl phthalate (Di-(2-ethylhexyl) phthalate)	117-81-7	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA 10 mg/m <sup>3</sup> STEL	
Disulfiram (Antabuse)	97-77-8	No former PEL	2 mg/m <sup>3</sup> TWA	
Disulfoton	298-04-4	No former PEL	0.1 mg/m <sup>3</sup> TWA	X
2,6-Di- <i>tert</i> -butyl- <i>p</i> -cresol	128-37- 0	No former PEL	10 mg/m <sup>3</sup> TWA	

**TEMPORARY RULES**

Diuron	330-54-1	No former PEL	10 mg/m <sup>3</sup> TWA	
Divinyl benzene	108-57-6	No former PEL	10 ppm TWA	
Emery Total dust Respirable fraction.	12415-34-8	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Endosulfan	115-29-7	No former PEL	0.1 mg/m <sup>3</sup> TWA	X
Endrin	72-20-8	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
Epichlorohydrin	106-89-8	5 ppm TWA	2 ppm TWA	X
EPN	2104-64-5	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
1,2-Epoxypropane; see Propylene oxide				
2,3-Epoxy-1-propanol; see Glycidol				
Ethanethiol; see Ethyl mercaptan				
Ethanolamine	141-43-5	3 ppm TWA	3 ppm TWA 6 ppm STEL	
Ethion	563-12-2	No former PEL	0.4 mg/m <sup>3</sup> TWA	X
2-Ethoxyethanol (Cellosolve)	110-80-5	200 ppm TWA	200 ppm TWA	X
2-Ethoxyethyl acetate (Cellosolve acetate)	111-15-9	100 ppm TWA	100 ppm TWA	X
Ethyl acetate	141-78-6	400 ppm TWA	400 ppm TWA	
Ethyl acrylate	140-88-5	25 ppm TWA	5 ppm TWA 25 ppm STEL	X
Ethyl alcohol (Ethanol)	64-17-5	1000 ppm TWA	1000 ppm TWA	
Ethylamine	75-04-7	10 ppm TWA	10 ppm TWA	
Ethyl amyl ketone (5-Methyl-3-heptanone)	106-68-3	25 ppm TWA	25 ppm TWA	
Ethyl benzene	100-41-4	100 ppm TWA	100 ppm TWA 125 ppm STEL	
Ethyl bromide	74-96-4	200 ppm TWA	200 ppm TWA 250 ppm STEL	
Ethyl butyl ketone (3-Heptanone)	106-35-4	50 ppm TWA	50 ppm TWA	
Ethyl chloride	75-00-3	1000 ppm TWA	1000 ppm TWA	

**TEMPORARY RULES**

Ethyl ether	60-29-7	400 ppm TWA	400 ppm TWA 500 ppm STEL	
Ethyl formate	109-94-4	100 ppm TWA	100 ppm TWA	
Ethyl mercaptan	75-08-1	10 ppm (C)	0.5 ppm TWA	
Ethyl silicate	78-10-4	100 ppm TWA	10 ppm TWA	
Ethylene chlorohydrin	107-07-3	5 ppm TWA	1 ppm (C)	X
Ethylenediamine	107-15-3	10 ppm TWA	10 ppm TWA	
Ethylene dibromide	106-93-4	20 ppm TWA	20 ppm TWA	
Ethylene dichloride (1,2-Dichloroethane)	107-06-2	Table Z-2	1 ppm TWA 2 ppm STEL	
Ethylene glycol	107-21-1	No former PEL	50 ppm (C)	
Ethylene glycol dinitrate	628-96-6	1 mg/m <sup>3</sup> (C)	0.1 mg/m <sup>3</sup> STEL	X
Ethylene glycol methyl acetate; see Methyl cellosolve acetate				
Ethyleneimine; see 1910.1012	151-56-4			
Ethylene oxide; see 1910.1047	75-21-8			
Ethylidene chloride; see 1,1-Dichlorethane				
N-Ethylmorpholine	100-74-3	20 ppm TWA	5 ppm TWA	X
Fenamiphos	22224-92-6	No former PEL	0.1 mg/m <sup>3</sup> TWA	X
Fensulfothion	115-90-2	No former PEL	0.1 mg/m <sup>3</sup> TWA	
Fenthion	55-38-9	No former PEL	0.2 mg/m <sup>3</sup> TWA	X
Ferbam Total dust Respirable fraction	14484-64-1	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Ferrovandium dust	12604-58-9	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA 3 mg/m <sup>3</sup> STEL	
Fluorides (as F)	Varies with compounds	2.5 mg/m <sup>3</sup> TWA	2.5 mg/m <sup>3</sup> TWA	
Fluorine	7782-41-4	0.1 ppm TWA	0.1 ppm TWA	
Fluorotrichloromethane (Trichloro- fluoromethane)	75-69-4	1000 ppm TWA	1000 ppm TWA (C)	
Fonofos	944-22-9	No former PEL	0.1 mg/m <sup>3</sup> TWA	X



**TEMPORARY RULES**

Formaldehyde; see 1910.1048	50-00-0			
Formamide	75-12-7	No former PEL	20 ppm TWA 30 ppm STEL	
Formic acid	64-18-6	5 ppm TWA	5 ppm TWA	
Furfural	98-01-1	5 ppm TWA	2 ppm TWA	X
Furfuryl alcohol	98-00-0	50 ppm TWA	10 ppm TWA 15 ppm STEL	X
Gasoline	8006-61-9	No former PEL	300 ppm TWA 500 ppm STEL	
Germanium tetrahydride	7782-65-2	No former PEL	0.2 ppm TWA	
Glycerin (mist) Total dust Respirable fraction	56-81-5	15 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Glycidol	556-52-5	50 ppm TWA	25 ppm TWA	
Glycol monoethyl ether; see 2-Ethoxyethanol				
Grain dust (oat, wheat barley)		No former PEL	10 mg/m <sup>3</sup> TWA	
Graphite, natural respirable dust	7782-42-5	Table Z-3	2.5 mg/m <sup>3</sup> TWA	
Graphite, synthetic Total dust Respirable Fraction	none	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Guthion; see Azinphos methyl				
Gypsum Total dust Respirable fraction	13397-214- 5	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Hafnium	7440-58-6	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	
Heptachlor	76-44-8	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
Heptane (n-Heptane)	142-82-5	500 ppm TWA	400 ppm TWA 500 ppm STEL	
Hexachlorobutadiene	87- 68-3	No former PEL	0.02 ppm TWA	
Hexachloroethane	67-72-1	1 ppm TWA	1 ppm TWA	X
Hexachloronaphthalene	1335-87-1	0.2 mg/m <sup>3</sup> TWA	0.2 mg/m <sup>3</sup> TWA	X

**TEMPORARY RULES**

Hexafluoroacetone	684-16-2	No former PEL	0.1 ppm TWA	X
n-Hexane	110-54-3	500 ppm TWA	50 ppm TWA	
Hexane isomers	Varies	No former PEL	500 ppm TWA 1000 ppm STEL	
2-Hexanone (Methyl n-butyl ketone)	591-78-6	100 ppm TWA	5 ppm TWA	
Hexone (Methyl isobutyl ketone)	108-10-1	100 ppm TWA	50 ppm TWA 75 ppm STEL	
sec-Hexyl acetate	108-84-9	50 ppm TWA	50 ppm TWA	
Hexylene glycol	107-41-5	No former PEL	25 ppm (C)	
Hydrazine	302-01-2	1 ppm TWA	0.1 ppm TWA	X
Hydrogen bromide	10035-10-6	3 ppm TWA	3 ppm (C)	
Hydrogen chloride	7647-01-0	5 ppm (C)	5 ppm (C)	
Hydrogen cyanide	74-90-8	10 ppm TWA	4.7 ppm STEL	X
Hydrogen fluoride (as F)	7664-39-3	No former PEL	3 ppm TWA 6 ppm STEL	
Hydrogen peroxide	7722-84-1	1 ppm TWA	1 ppm TWA	
Hydrogen selenide (as Se)	7783-07-5	0.05 ppm TWA	0.05 ppm TWA	
Hydrogen sulfide	7783-06-4	Table Z-2	10 ppm TWA 15 ppm STEL	
Hydrogenated terphenyls	61788-32-7	No former PEL	0.5 ppm TWA	
Hydroquinone	123-31-9	2 mg/m <sup>3</sup> TWA	2 mg/m <sup>3</sup> TWA	
2-Hydroxypropyl acrylate	999-61-1	No former PEL	0.5 ppm TWA	X
Indene	95-13-6	No former PEL	10 ppm TWA	
Indium & compounds (As In)	7440-74-6	No former PEL	0.1 mg/m <sup>3</sup> TWA	
Iodine	7553-56-2	0.1 mg/m <sup>3</sup> (C)	0.1 ppm (C)	
Iodoform	75-47-8	No former PEL	0.6 ppm TWA	
Iron oxide, dust & fume Total particulate	1309-37-1	10 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA	
Iron pentacarbonyl	13463-40-6	No former PEL	0.1 ppm TWA 0.2 ppm STEL	

**TEMPORARY RULES**

Iron salts (soluble) (as Fe)	Varies with compound	No former PEL	1 mg/m <sup>3</sup> TWA	
Isoamyl acetate	123-92-2	100 ppm TWA	100 ppm TWA	
Isoamyl alcohol (primary and secondary)	123-51-3	100 ppm TWA	100 ppm TWA 125 ppm STEL	
Isobutyl acetate	110-19-0	150 ppm TWA	150 ppm TWA	
Isobutyl alcohol	78-83-1	100 ppm TWA	50 ppm TWA	
Isooctyl alcohol	26952-21-6	No former PEL	50 ppm TWA	X
Isophorone	78-59-1	25 ppm TWA	4 ppm TWA	
Isophorone diisocyanate	4098-71-9	No former PEL	0.005 ppm TWA 0.02 ppm STEL	X X
2-Isopropoxyethanol	109-59-1	No former PEL	25 ppm TWA	
Isopropyl acetate	108-21-4	250 ppm TWA	250 ppm TWA 310 ppm STEL	
Isopropyl alcohol	67-63-0	400 ppm TWA	400 ppm TWA 500 ppm STEL	
Isopropylamine	75-31-0	5 ppm TWA	5 ppm TWA 10 ppm STEL	
N-Isopropylaniline	768-52-5	No former PEL	2 ppm TWA	X
Isopropyl ether	108-20-3	500 ppm TWA	500 ppm TWA	
Isopropyl glycidyl ether (IGE)	4016-14-2	50 ppm TWA	50 ppm TWA 75 ppm STEL	
Kaolin Total dust Respirable fraction	1332-58-7	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Ketene	463-51-4	0.5 ppm TWA	0.5 ppm TWA 1.5 ppm STEL	
Lead inorganic (as Pb); see 1910.1025	7439-92-1			
Limestone Total dust Respirable fraction.	1317-65-3	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Lindane	58-89-9	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
Lithium hydride	7580-67-8	0.025 mg/m <sup>3</sup> TWA	0.025 mg/m <sup>3</sup> TWA	
L.P.G. (Liquified petroleum gas)	68476-85-7	1000 ppm TWA	1000 ppm TWA	



**TEMPORARY RULES**

Magnesite Total dust Respirable fraction.	546-93-0	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Magnesium oxide fume Total Particulate Respirable fraction	1309-48-4	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Malathion Total dust Respirable fraction	121-75-5	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	X
Maleic anhydride	108-31-6	0.25 ppm TWA	0.25 ppm TWA	
Manganese compounds (as Mn)	7439-96-5	5 mg/m <sup>3</sup> (C)	5 mg/m <sup>3</sup> TWA (C)	
Manganese fume (as Mn)	7439-96-5	5 mg/m <sup>3</sup> (C)	1 mg/m <sup>3</sup> TWA 3 mg/m <sup>3</sup> STEL	
Manganese cyclopentadi- enyl tricaronyl(as Mn)	12079-65-1	No former PEL	0.1 mg/m <sup>3</sup> TWA	X
Manganese tetroxide(Mn)	1317-35-7	No former PEL	1 mg/m <sup>3</sup> TWA	
Marble Total dust Respirable fraction	1317-65-3	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Mercury (aryl and inorganic)(as Hg)	7439-97-6	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> (C)	X
Mercury (organo) alkyl compounds (as Hg)	7439-97-6 7439-97-6	0.01 mg/m <sup>3</sup> TWA 0.04 mg/m <sup>3</sup> (C)	0.01 mg/m <sup>3</sup> TWA 0.03 mg/m <sup>3</sup> STEL	X
Mercury (vapor) (as Hg)	7439-97-6	0.1 mg/m <sup>3</sup> TWA	0.05 mg/m <sup>3</sup> TWA	X
Mesityl oxide	141-79-7	25 ppm TWA	15 ppm TWA 25 ppm STEL	
Methacrylic acid	79-14-4	No former PEL	20 ppm TWA	X
Methanethiol; see Methyl mercaptan.				
Methomyl	16752-77- 15	No former PEL	2.5 mg/m <sup>3</sup> TWA	
Methoxychlor Total dust Respirable fraction	72-43-5	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
2-Methoxyethanol; (Methyl cellosolve)	109-86-4	25 ppm TWA	25 ppm TWA	X
2-Methoxyethyl acetate (Methyl cellosolve acetate)	110-49-6	25 ppm TWA	25 ppm TWA	X
4-Methoxyphenol	150-76-5	No former PEL	5 mg/m <sup>3</sup> TWA	

**TEMPORARY RULES**

Methyl acetate	79-20-9	200 ppm TWA	200 ppm TWA 250 ppm STEL	
Methyl acetylene (Propyne)	74-99-7	1000 ppm TWA	1000 ppm TWA	
Methyl acetylene propadiene mixture (MAPP)		1000 ppm TWA	1000 ppm TWA 1250 ppm STEL	
Methyl acrylate	96-33-3	10 ppm TWA	10 ppm TWA	X
Methylacrylonitrile	126-98-7	No former PEL	1 ppm TWA	X
Methylal (Dimethoxymethane)	109-87-5	1000 ppm TWA	1000 ppm TWA	
Methyl alcohol	67-56-1	200 ppm TWA	200 ppm TWA 250 ppm STEL	X X
Methylamine	74-89-5	10 ppm TWA	10 ppm TWA	
Methyl amyl alcohol; see Methyl Isobutyl carbinol				
Methyl <i>n</i> -amyl ketone	110-43-0	100 ppm TWA	100 ppm TWA	
Methyl bromide	74-83-9	20 ppm (C)	5 ppm TWA	X
Methyl butyl ketone; see 2-Hexanone				
Methyl cellosolve; see 2-Methoxyethanol				
Methyl cellosolve acetate; see 2-Methoxyethyl acetate				
Methyl chloride	74-87-3	100 ppm TWA 200 ppm (C)	50 ppm TWA 100 ppm STEL	
Methyl chloroform (1,1,1-Trichloro- ethane)	71-55-6	350 ppm TWA	350 ppm TWA 450 ppm STEL	
Methyl 2-cyanoacrylate	137-05-3	No former PEL	2 ppm TWA 4 ppm STEL	
Methylcyclohexane	108-87-2	500 ppm TWA	400 ppm TWA	
Methylcyclohexanol	25639-42-3	100 ppm TWA	50 ppm TWA	
<i>o</i> -Methylcyclohexanone	583-60-8	100 pm TWA	50 ppm TWA 75 ppm STEL	X

**TEMPORARY RULES**

Methylcyclopenta- dienyl manganese tricarbonyl (as Mn)	12108-13-3	No former PEL	0.2 mg/m <sup>3</sup> TWA	X
Methyl demeton	8022-00-2	No former PEL	0.5 mg/m <sup>3</sup> TWA	X
4,4'-Methylene bis(2- chloroaniline)(MBOCA)	101-14-4	No former PEL	0.02 ppm TWA	X
Methylene chloride	75-09-2	<del>100 ppm</del> TWA Table Z-2	<del>100 ppm TWA</del> In federal rulemaking	
Methyl ethyl ketone (MEK); see 2-Butanone				
Methyl ethyl ketone peroxide (MEKP)	1338-23-4	No former PEL	0.7 ppm (C)	
Methyl formate	107-31-3	100 ppm TWA	100 ppm TWA 150 ppm STEL	
Methyl hydrazine (Monomethyl hydrazine)	60-34-4	0.2 ppm (C)	0.2 ppm (C)	X
Methyl iodide	74-88-4	5 ppm TWA	2 ppm TWA	X
Methyl isoamyl ketone	110-12-3	No former PEL	50 ppm TWA	
Methyl isobutyl carbinol	108-11-2	25 ppm TWA	25 ppm TWA 40 ppm STEL	X X
Methyl isobutyl ketone; see Hexone				
Methyl isocyanate	624-83-9	0.02 ppm TWA	0.02 ppm TWA	X
Methyl isopropyl ketone	563-80-4	No former PEL	200 ppm TWA	
Methyl mercaptan	74-93-1	10 ppm (C)	<del>10 ppm (C)</del> 0.5 ppm TWA	
Methyl methacrylate	80-62-6	100 ppm TWA	100 ppm TWA	
Methyl parathion	298-00-0	No former PEL	0.2 mg/m <sup>3</sup> TWA	X
Methyl propyl ketone; see 2-Pentanone				
Methyl silicate	681-84-5	No former PEL	1 ppm TWA	
<i>alpha</i> -Methyl styrene	98-83-9	100 ppm (C)	50 ppm TWA 100 ppm STEL	
Methylene bis(4- cyclohexylisocyanate	5124-30-1	No former PEL	0.01 ppm (C)	X
Methylene bisphenyl isocyanate (MDI)	101-68-8	0.02 ppm (C)	0.02 ppm (C)	

**TEMPORARY RULES**

Metribuzin	21087-64-9	No former PEL	5 mg/m <sup>3</sup> TWA	
Mica; see Silicates				
Molybdenum (as Mo) Soluble compounds Insoluble Compounds Total dust Respirable fraction	7439-98-7	5 mg/m <sup>3</sup> TWA  15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA  10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Monocrotophos	6923-22-4	No former PEL	0.25 mg/m <sup>3</sup> TWA	
Monomethyl aniline	100-61-8	2 ppm TWA	0.5 ppm TWA	X
Monomethyl hydrazine; see Methyl hydrazine				
Morpholine	110-91-8	20 ppm TWA	20 ppm TWA 30 ppm STEL	X X
Naphtha (Coal tar)	8030-30-6	100 ppm TWA	100 ppm TWA	
Naphthalene	91-20-3	10 ppm TWA	10 ppm TWA 15 ppm STEL	
alpha-Naphthylamine; see 1910.1004	134-32-7			
beta-Naphthylamine; see 1910.1009	91-59-8			
Nickel carbonyl (as Ni)	13463-39-3	0.001 ppm TWA	0.001 ppm TWA	
Nickel, metal and insoluble compounds (as Ni)	7440-02-0	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	
Nickel, soluble compounds (as Ni)	7440-02-0	1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	
Nicotine	54-11-5	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
Nitric acid	7697-37-2	2 ppm TWA	2 ppm TWA 4 ppm STEL	
Nitric oxide	10102-43-9	25 ppm TWA	25 ppm TWA	
p-Nitroaniline	100-01-6	6 mg/m <sup>3</sup> TWA	3 mg/m <sup>3</sup> TWA	X
Nitrobenzene	98-95-3	1 ppm TWA	1 ppm TWA	X
p-Nitrochlorobenzene	100-00-5	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	X
4-Nitrodiphenyl; see 1910.1003	92-93-3			
Nitroethane	79-24-3	100 ppm TWA	100 ppm TWA	
Nitrogen dioxide	10102-44-0	5 ppm (C)	1 ppm STEL	
Nitrogen trifluoride	7783-54-2	10 ppm TWA	10 ppm TWA	



**TEMPORARY RULES**

Nitroglycerin	55-63-0	1 mg/m <sup>3</sup> (C)	0.1 mg/m <sup>3</sup> STEL	X
Nitromethane	75-52-5	100 ppm TWA	100 ppm TWA	
1-Nitropropane	108-03-2	25 ppm TWA	25 ppm TWA	
2-Nitropropane	79-46-9	25 ppm TWA	10 ppm TWA	
N-Nitrosodimethylamine; see 1910.1016				
Nitrotoluene (all isomers)				
o-isomer	88-72-2	5 ppm TWA	2 ppm TWA	X
m-isomer	99-08-1	5 ppm TWA	2 ppm TWA	X
p-isomer	99-99-0	5 ppm TWA	2 ppm TWA	X
Nitrotrichloromethane; see Chloropicrin				
Nonane	111-84-2	No former PEL	200 ppm TWA	
Octachloronaphthalene	2234-13-1	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA 0.3 mg/m <sup>3</sup> STEL	X
Octane	111-65-9	500 ppm TWA	300 ppm TWA 375 ppm STEL	
Oil mist, mineral	8012-95-1	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Osmium tetroxide (as Os)	20816-12-0	0.002 mg/m <sup>3</sup> TWA	0.002 mg/m <sup>3</sup> TWA 0.006 mg/m <sup>3</sup> STEL	
Oxalic acid	144-62-7	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA 2 mg/m <sup>3</sup> STEL	
Oxygen difluoride	7783-41-7	0.05 ppm TWA	0.05 ppm (C)	
Ozone	10028-15-6	0.1 ppm TWA	0.1 ppm TWA 0.3 ppm STEL	
Paraffin wax fume	8002-74-2	No former PEL	2 mg/m <sup>3</sup> TWA	
Paraquat, respirable dust	4685-14-7 1910-42-5 2074-50-2	0.5 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
Parathion	56-38-2	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
Particulates not otherwise regulated (PNOR)(f) Total dust Respirable fraction		15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
PCB; see Chlorodiphenyl (42% and 54% chlorine)				
Pentaborane	19624-22-7	0.005 ppm TWA	0.005 ppm TWA 0.015 ppm STEL	

**TEMPORARY RULES**

Pentachloronaphthalene	1321-64-8	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
Pentachlorophenol	87-86-5	0.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
Pentaerythritol Total dust Respirable fraction	115-77-5	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Pentane	109-66-0	1000 ppm TWA	600 ppm TWA 750 ppm STEL	
2-Pentanone (Methyl propyl ketone)	107-87-9	200 ppm TWA	200 ppm TWA 250 ppm STEL	
Perchloroethylene (Tetrachloroethylene)	127-18-4	Table Z-2	25 ppm TWA	
Perchloromethyl mercaptan	594-42-3	0.1 ppm TWA	0.1 ppm TWA	
Perchloryl fluoride	7616-94-6	3 ppm TWA	3 ppm TWA 6 ppm STEL	
Perlite Total dust Respirable fraction	93763-70-3	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Petroleum distillates (Naphtha)(Rubber Solvent)	8002-05-9	500 ppm TWA	400 ppm TWA	
Phenol	108-95-2	5 ppm TWA	5 ppm TWA	X
Phenothiazine	92-84-2	No former PEL	5 mg/m <sup>3</sup> TWA	X
p-Phenylene diamine	106-50-3	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
Phenyl ether, vapor	101-84-8	1 ppm TWA	1 ppm TWA	
Phenyl ether-biphenyl mixture, vapor		1 ppm TWA	1 ppm TWA	
Phenylethylene; see Styrene				
Phenyl glycidyl ether (PGE)	122-60-1	10 ppm TWA	1 ppm TWA	
Phenylhydrazine	100-63-0	5 ppm TWA	5 ppm TWA 10 ppm STEL	X
Phenyl mercaptan.	108-98-5	No former PEL	0.5 ppm TWA	
Phenylphosphine	638-21-1	No former PEL	0.05 ppm (C)	
Phorate (Thimet)	298-02-2	No former PEL	0.05 mg/m <sup>3</sup> TWA 0.2 mg/m <sup>3</sup> STEL	X
Phosdrin (Mevinphos)	7786-34-7	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA 0.3 mg/m <sup>3</sup> STEL	X X

**TEMPORARY RULES**

Phosgene (Carbonyl chloride)	75-44-5	0.1 ppm TWA	0.1 ppm TWA	
Phosphine	7803-51-2	0.3 ppm TWA	0.3 ppm TWA 1 ppm STEL	
Phosphoric acid	7664-38-2	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA 3 mg/m <sup>3</sup> STEL	
Phosphorus (yellow)	7723-14-0	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	
Phosphorus oxychloride	10025-87-3	No former PEL	0.1 ppm TWA	
Phosphorus pentachloride	10026-13-8	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	
Phosphorus pentasulfide	1314-80-3	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA 3 mg/m <sup>3</sup> STEL	
Phosphorus trichloride	7719-12-2	0.5 ppm TWA	0.2 ppm TWA 0.5 ppm STEL	
Phthalic anhydride	85-44-9	2 ppm TWA	1 ppm TWA	
<i>m</i> -Phthalodinitrile	626-17-5	No former PEL	5 mg/m <sup>3</sup> TWA	
Picloram Total dust Respirable fraction	1918-02-1	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Picric acid	88-89-1	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
Pindone (2-Pivalyl-1, 3-indandione)	83-26-1	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	
Piperazine dihydrochloride	142-64-3	No former PEL	5 mg/m <sup>3</sup> TWA	
Plaster of paris Total dust Respirable fraction	26499-65-0	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Platinum (as Pt) Metal Soluble Salts	7440-06-4	0.002 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA 0.002 mg/m <sup>3</sup> TWA	
Portland cement Total dust Respirable fraction	65997-15-1	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Propane	74-98-6	1000 ppm TWA	1000 ppm TWA	
Propargyl alcohol	107-19-7	No former PEL	1 ppm TWA	X
Propionic acid	79-09-4	No former PEL	10 ppm TWA	
Propoxur	114-26-1	No former PEL	0.5 mg/m <sup>3</sup> TWA	
<i>beta</i> -Propiolactone; see 1910.1013	57-57-8			

**TEMPORARY RULES**

<i>n</i> -Propyl acetate	109-60-4	200 ppm TWA	200 ppm TWA 250 ppm STEL	
<i>n</i> -Propyl alcohol	71-23-8	200 ppm TWA	200 ppm TWA 250 ppm STEL	
<i>n</i> -Propyl nitrate	627-13-4	25 ppm TWA	25 ppm TWA 40 ppm STEL	
Propylene dichloride	78-87-5	75 ppm TWA	75 ppm TWA 110 ppm STEL	
Propylene glycol dinitrate	6423-43-4	No former PEL	0.05 ppm TWA	
Propylene glycol mono-methyl ether	107-98-2	No former PEL	100 ppm TWA 150 ppm STEL	
Propylene imine	75-55-8	2 ppm TWA	2 ppm TWA	X
Propylene oxide	75-56-9	100 ppm TWA	20 ppm TWA	
Propyne; see Methyl acetylene				
Pyrethrum	8003-34-7	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Pyridine	110-86-1	5 ppm TWA	5 ppm TWA	
Quinone	106-51-4	0.1 ppm TWA	0.1 ppm TWA	
RDX: see Cyclonite				
Resorcinol	108-46-3	No former PEL	10 ppm TWA 20 ppm STEL	
Rhodium (as Rh), metal fume and insoluble compounds	7440-16-6	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	
Rhodium (as Rh), soluble compounds	7440-16-6	0.001 mg/m <sup>3</sup> TWA	0.001 mg/m <sup>3</sup> TWA	
Ronnel	299-84-3	15 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA	
Rotenone	83-79-4	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Rouge Total dust Respirable fraction		15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Selenium compounds (as Se)	7782-49-2	0.2 mg/m <sup>3</sup> TWA	0.2 mg/m <sup>3</sup> TWA	
Selenium hexafluoride (as Se)	7783-79-1	0.05 ppm TWA	0.05 ppm TWA	
Silica, amorphous, precipitated and gel	112926-00-8	Table Z-3	6 mg/m <sup>3</sup> TWA	



**TEMPORARY RULES**

Silica, amorphous, diatomaceous earth, containing less than 1% crystalline silica		Table Z-3	6 mg/m <sup>3</sup> TWA	
Silica, crystalline cristobalite, respirable dust	14464-46-1	Table Z-3	0.05 mg/m <sup>3</sup> TWA	
Silica, crystalline quartz, respirable dust	14808-60-7	Table Z-3	0.1 mg/m <sup>3</sup> TWA	
Silica, crystalline tripoli (as quartz), respirable dust	1317-95-9	Table Z-3	0.1 mg/m <sup>3</sup> TWA	
Silica, crystalline tridymite, respirable dust	15468-32-3	Table Z-3	0.05 mg/m <sup>3</sup> TWA	
Silica, fused, respirable dust	60676-86-0	Table Z-3	0.1 mg/m <sup>3</sup> TWA	
Silicates (less than 1% crystalline silica) Mica (respirable dust) Soapstone, total dust Soapstone, respirable dust Talc (containing asbestos): use asbestos limit: see 29 CFR 1910.1001	12001-26-2	Table Z-3 Table Z-3 Table Z-3	3 mg/m <sup>3</sup> TWA 6 mg/m <sup>3</sup> TWA 3 mg/m <sup>3</sup> TWA	
Talc (containing no asbestos), respirable dust Tremolite, asbestiform; see 1910.1001	14807-96-6	Table Z-3	2 mg/m <sup>3</sup> TWA	
Silicon Total dust Respirable fraction	7440-21-3	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Silicon carbide Total dust Respirable fraction	409-21-2	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Silicon tetrahydride	7803-62-5		5 ppm TWA	
Silver, metal dust and fume (as Ag)	7440-22-4	0.01 mg/m <sup>3</sup> TWA	0.01 mg/m <sup>3</sup> TWA	
Soapstone; see Silicates				

**TEMPORARY RULES**

Sodium azide (as HN <sub>3</sub> ) (as NaN <sub>3</sub> )	26628-22-8	No former PEL	0.1 ppm (C) 0.3 mg/m <sup>3</sup> (C)	X X
Sodium bisulfite	7631-90-5	No former PEL	5 mg/m <sup>3</sup> TWA	
Sodium fluoroacetate	62-74-8	0.05 mg/m <sup>3</sup> TWA	0.05 mg/m <sup>3</sup> TWA 0.15 mg/m <sup>3</sup> STEL	X X
Sodium hydroxide	1310-73-2	2 mg/m <sup>3</sup> TWA	2 mg/m <sup>3</sup> (C)	
Starch Total dust Respirable fraction	9005-25-8	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Stibine	7803-52-3	0.1 ppm TWA	0.1 ppm TWA	
Stoddard solvent	8052-41-3	500 ppm TWA	100 ppm TWA	
Strychnine	57-24-9	0.15 mg/m <sup>3</sup> TWA	0.15 mg/m <sup>3</sup> TWA	
Styrene	100-42-5	Table Z-2	50 ppm TWA 100 ppm STEL	
Sucrose Total dust Respirable fraction	57-50-1	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Sulfur dioxide	7446-09-5	5 ppm TWA	2 ppm TWA 5 ppm STEL	
Sulfur hexafluoride	2551-62-4	1000 ppm TWA	1000 ppm TWA	
Sulfuric acid	7664-93-9	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	
Sulfur monochloride	10025-67-9	1 ppm TWA	1 ppm (C)	
Sulfur pentafluoride	5714-22-7	0.025 ppm TWA	0.01 ppm (C)	
Sulfur tetrafluoride	7783-60-0		0.1 ppm (C)	
Sulfuryl fluoride	2699-79-8	5 ppm TWA	5 ppm TWA 10 ppm STEL	
Sulprofos	35400-43-2	No former PEL	1 mg/m <sup>3</sup> TWA	
Systox; see Demeton.. 2,4,5-T (2,4,5-tri- chlorophenoxyacetic acid)	93-76-5	10 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA	
Talc; see Silicates				
Tantalum, metal and oxide dust	7440-25-7	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
TEDP (Sulfotep)	3689-24-5	0.2 mg/m <sup>3</sup> TWA	0.2 mg/m <sup>3</sup> TWA	X
Tellurium and compounds (as Te)	13494-80-9	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	

**TEMPORARY RULES**

Tellurium hexafluoride (as Te)	7783-80-4	0.02 ppm TWA	0.02 ppm TWA	
Temephos Total dust Respirable fraction	3383-96-8	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
TEPP (Tetraethyl pyrophosphate)	107-49-3	0.05 mg/m <sup>3</sup> TWA	0.05 ppm TWA	X
Terphenyls	26140-60-3	1 ppm (C)	0.5 ppm (C)	
1,1,1,2-Tetrachloro- 2,2-difluoroethane	76-11-9	500 ppm TWA	500 ppm TWA	
1,1,2,2-Tetrachloro- 1,2-difluoroethane	76-12-0	500 ppm TWA	500 ppm TWA	
1,1,2,2-Tetrachloroethan e	79-34-5	5 ppm TWA	1 ppm TWA	X
Tetrachloroethylene; see Perchloroethylene				
Tetrachloromethane; see Carbon tetrachloride				
Tetrachloronaphthalene	1335-88-2	2 mg/m <sup>3</sup> TWA	2 mg/m <sup>3</sup> TWA	X
Tetraethyl lead (as Pb)	78-00-2	0.075 mg/m <sup>3</sup> TWA	0.075 mg/m <sup>3</sup> TWA	X
Tetrahydrofuran	109-99-9	200 ppm TWA	200 ppm TWA 250 ppm STEL	
Tetramethyl lead (as Pb)	75-74-1	0.075 mg/m <sup>3</sup> TWA	0.075 mg/m <sup>3</sup> TWA	X
Tetramethyl succinonitrile	3333-52-6	0.5 ppm TWA	0.5 ppm TWA	X
Tetranitromethane	509-14-8	1 ppm TWA	1 ppm TWA	
Tetrasodium Pyrophosphate	7722-88-5		5 mg/m <sup>3</sup> TWA	
Tetryl (2,4,6-Trinitro- phenylmethyl- nitramine)	479-45-8	1.5 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
Thallium, soluble compounds (as Tl)	7440-28-0	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
4,4'-Thiobis(6- <i>tert</i> - Butyl- <i>m</i> -cresol) Total dust Respirable fraction	96-69-5	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Thioglycolic acid	68-11-1	No former PEL	1 ppm TWA	X
Thionyl chloride	7719-09-7	No former PEL	1 ppm (C)	

**TEMPORARY RULES**

Thiram	137-26-8	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
Tin, inorganic compounds (except oxides) (as Sn)	7440-31-5	No former PEL	2 mg/m <sup>3</sup> TWA	
Tin, organic compounds (as Sn)	7440-31-5	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
Tin oxide	7440-31-5	No former PEL	2 mg/m <sup>3</sup> TWA	
Titanium dioxide Total dust Respirable fraction	13463-67-7	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Toluene	108-88-3	Table Z-2	100 ppm TWA 150 ppm STEL	
Toluene-2,4-diisocyanate (TDI)	584-84-9	0.02 ppm (C)	0.005 ppm TWA 0.02 ppm STEL	
<i>m</i> -Toluidine	108-44-1	No former PEL	2 ppm TWA	X
<i>o</i> -Toluidine	95-53-4	5 ppm TWA	5 ppm TWA	X
<i>p</i> -Toluidine	106-49-0	No former PEL	2 ppm TWA	X
Toxaphene; see Chlorinated camphene				
Tremolite; see Silicates				
Tributyl phosphate	126-73-8	5 mg/m <sup>3</sup> TWA	2.5 mg/m <sup>3</sup> TWA	
Trichloroacetic acid	76-03-9	No former PEL	1 ppm TWA	
1,1,1-Trichloroethane; see Methyl chloroform				
1,1,2-Trichloroethane	79-00-5	10 ppm TWA	10 ppm TWA	X
Trichloroethylene	79-01-6	Table Z-2	50 ppm TWA 200 ppm STEL	
Trichloromethane; see Chloroform				
Trichloronaphthalene	1321-65-9	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA	
1,2,3-Trichloropropane	96-18-4	50 ppm TWA	10 ppm TWA	
1,1,2-Trichloro-1,2, 2-trifluoroethane	76-13-1	1000 ppm TWA	1000 ppm TWA 1250 ppm STEL	
Triethylamine	121-44-8	25 ppm TWA	10 ppm TWA 15 ppm STEL	
Trifluorobromomethane	75-63-8	1000 ppm TWA	1000 ppm TWA	
Trimellitic anhydride	552-30-7	No former PEL	0.005 ppm TWA	



**TEMPORARY RULES**

Trimethylamine	75-50-3	No former PEL	10 ppm TWA 15 ppm STEL	
Trimethyl benzene	25551-13-7	No former PEL	25 ppm TWA	
Trimethyl phosphite	121-45-9	No former PEL	2 ppm TWA	
2,4,6-Trinitrophenyl; see Picric acid				
2,4,6-Trinitrophenyl- methyl nitramine; see Tetryl				
2,4,6-Trinitrotoluene (TNT)	118-96-7	1.5 mg/m <sup>3</sup> TWA	0.5 mg/m <sup>3</sup> TWA	X
Triorthocresyl phosphate	78-30-8	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	X
Triphenyl amine	603-34-9	No former PEL	5 mg/m <sup>3</sup> TWA	
Triphenyl phosphate	115-86-6	3 mg/m <sup>3</sup> TWA	3 mg/m <sup>3</sup> TWA	
Tungsten Compounds (as W) (insoluble)  (Soluble)	7440-33-7	No former PEL	5 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA 10 mg/m <sup>3</sup> STEL 1 mg/m <sup>3</sup> TWA 3 mg/m <sup>3</sup> STEL	
Turpentine	8006-64-2	100 ppm TWA	100 ppm TWA	
Uranium (as U) Soluble compounds Insoluble compounds	7440-61-1	0.05 mg/m <sup>3</sup> TWA 0.25 mg/m <sup>3</sup> TWA	0.05 mg/m <sup>3</sup> TWA 0.2 mg/m <sup>3</sup> TWA 0.6 mg/m <sup>3</sup> STEL	
n-Valeraldehyde	110-62-3	No former PEL	50 ppm TWA	
Vanadium Respirable dust (as V <sub>2</sub> O <sub>5</sub> ) Fume (as V <sub>2</sub> O <sub>5</sub> )	1314-62-1	0.5 ppm <u>mg/m<sup>3</sup></u> (C) 0.1 ppm <u>mg/m<sup>3</sup></u> (C)	<del>0.05 ppm (C)</del> <u>0.05 mg/m<sup>3</sup> TWA</u> <del>0.05 ppm (C)</del> <u>0.05 mg/m<sup>3</sup> TWA</u>	
Vegetable oil mist Total dust Respirable fraction		15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Vinyl acetate	108-05-4	No former PEL	10 ppm TWA 20 ppm STEL	
Vinyl benzene; see Styrene				
Vinyl bromide	593-60-2	No former PEL	5 ppm TWA	
Vinyl chloride; see 1910.1017	75-01-5			

**TEMPORARY RULES**

Vinyl cyanide; see Acrylonitrile				
Vinyl cyclohexene dioxide	106-87-6	No former PEL	10 ppm TWA	X
Vinylidene chloride (1,1-dichloroethylene)	75-35-4	No former PEL	1 ppm TWA	
Vinyl toluene	25013-15-4	100 ppm TWA	100 ppm TWA	
VM&P Naptha	8032-32-4	No former PEL	300 ppm TWA 400 ppm STEL	
Warfarin	81-81-2	0.1 mg/m <sup>3</sup> TWA	0.1 mg/m <sup>3</sup> TWA	
Welding fumes (Total particulate)		No former PEL	5 mg/m <sup>3</sup> TWA	
Wood dust all soft and hard - woods except Western red cedar	NONE	No former PEL	5 mg/m <sup>3</sup> TWA 10 mg/m <sup>3</sup> STEL	
Wood dust, allergenic (Western Red Cedar)	NONE	No former PEL	2.5 mg/m <sup>3</sup> TWA	
<i>m</i> -Xylene-alpha, alpha', diamine	1477-55-0	No former PEL	0.1 mg/m <sup>3</sup> (C)	X
Xylenes ( <i>o</i> -, <i>m</i> -, <i>p</i> -isomers)	1330-20-7	100 ppm TWA	100 ppm TWA 150 ppm STEL	
Xylidine	1300-73-8	5 ppm TWA	2 ppm TWA	X
Yttrium	7440-65-5	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA	
Zinc chloride fume	7646-85-7	1 mg/m <sup>3</sup> TWA	1 mg/m <sup>3</sup> TWA 2 mg/m <sup>3</sup> STEL	
Zinc chromate (as CrO <sub>3</sub> )	varies with compound	Table Z-2	0.1 mg/m <sup>3</sup> (C)	
Zinc oxide fume	1314-13-2	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA 10 mg/m <sup>3</sup> STEL	
Zinc oxide Total dust Respirable fraction	1314-13-2	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Zinc stearate Total dust Respirable fraction	557-05-1	15 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	10 mg/m <sup>3</sup> TWA 5 mg/m <sup>3</sup> TWA	
Zirconium compounds (as Zr)	7440-67-7	5 mg/m <sup>3</sup> TWA	5 mg/m <sup>3</sup> TWA 10 mg/m <sup>3</sup> STEL	

- (B) Incorporation by reference of modified final rule for 29 CFR 1910.1200, Hazard Communication, including Appendices A through E, published in 59 FR (February 9, 1994) pages 6170 - 6184 except that 1910.1200(b)(6)(ii) is amended to read: "(ii) Any hazardous substance as such term is defined by the

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601 *et seq.*), when regulated as a hazardous waste under that Act by the Environmental Protection Agency."

(b) The parts of the Code of Federal Regulations adopted by reference in this Subchapter shall not automatically include any subsequent amendments thereto, except as follows:

(1) Subpart H -- Hazardous Materials:

- (A) Technical corrections at 1910.109(g)(4)(v), Explosives and Blasting Agents, published in 58 FR (March 29, 1993) page 16496 and effective on December 31, 1993.
- (B) Technical corrections at 1910.110(d)(11), Storage and Handling of Liquefied Petroleum Gases, published in 58 FR (March 19, 1993) page 15089 and effective on December 31, 1993.
- (C) Technical amendments to the existing Appendix B and addition of non-mandatory Appendix E to 1910.120, *Hazardous waste operations and emergency response* as published in 59 FR (August 22, 1994) pages 43270 - 43280 and effective on November 1, 1994.

(2) Subpart I -- Personal Protective Equipment:

- (A) Addition of paragraphs (d), (e) and (f) to 1910.132 - *General requirements*; revisions to 1910.133 - *Eye and face protection*, 1910.135 - *Head protection*, 1910.136 - *Foot protection*; and addition of 1910.138 - *Hand protection*, including non-mandatory Appendices A and B, published in 59 FR (April 6, 1994) pages 16360 - 16364 and effective on September 1, 1994; addition of paragraph (g) to 1910.132 - *General requirements*; technical and clarifying amendments to 1910.133 - *Eye and face protection*, 1910.136 - *Foot protection*, and 1910.138 - *Hand protection*, as published in 59 FR (July 1, 1994) pages 33910 - 33911 and effective on September 1, 1994.
- (B) Revisions to 1910.137, *Electrical Protective Equipment*, published in 59 FR (January 31, 1994) pages 4435 - 4437 and effective on November 1, 1994.

(3) Subpart J -- General Environmental Controls -- typographical and clarifying corrections at 1910.146, Permit-Required Confined Spaces, published in 58 FR (June 29, 1993) pages 34844 - 34851 and effective on September 24, 1993; a metric equivalent addition of "1.52 m" to 1910.146 (k) (3) (ii) and revisions to "Atmospheric monitoring" section of Appendix E as published in 59 FR (May 19, 1994) pages 26114 - 26116 and effective on September 1, 1994; corrections are to final rule for Permit-Required Confined Spaces as originally published in 58 FR 4462 (January 14, 1993).

(4) Subpart R - Special Industries:

- (A) Amendment to Authority Citation for Subpart R of 1910 as published in 59 FR (October 12, 1994) page 51741.
- (B) Amendments to 1910.266, *Logging operations*, including Appendices A, B, and C as published in 59 FR (October 12, 1994) pages 51741 - 51748 and effective on April 1, 1995; corrections and technical amendments to 1910.266(c), (d), (e), (f), (g), (h), (i) and Appendix A as published in 60 FR (September 8, 1995) pages 47035-47037 and effective on January 1, 1996.
- (C) Amendment to *Electrical Protective Equipment* at 1910.269(r)(5) that requires gasoline-engine power saw operations to also meet the requirements of 1910.266(e) as published in 59 FR (October 12, 1994) page 51748 and effective on April 1, 1995.

(5) Subpart S -- *Electrical* -- amendment to citation authority for Subpart S of 1910, and amendments to Notes 2 and 3 for 1910.133(c)(1) and the Note for 1910.133(c)(3), published in 59 FR (January 31, 1994) pages 4475 - 4576 and effective on November 1, 1994.

(6) Subpart Z -- Toxic and Hazardous Substances:

- (A) Revision of Authority Citation for Subpart Z of Part 1910 published in 59 FR (July 19, 1994) pages 36699 - 36700 and effective on November 1, 1994.
- (B) Revocation of exposure limits in "Final rule limits" columns of Table Z-1-A at 1910.1000, Air Contaminants, published in 58 FR (June 30, 1993) pages 35338 - 35351 and effective on September 24, 1993.
- (C) Correction to Table Z-3 Mineral Dust at 1910.1000, Air Contaminants, published in 58 FR (July 27, 1993) page 40191 and effective on December 31, 1993.
- (D) Technical amendments and corrections to final rule on Occupational Exposure to Lead, 29 CFR 1910.1025, including amendments to Appendices B and C of 1910.1025, with the same compliance dates as found in Table 1 of subparagraph 1910.1025(e)(1), as published in 60 FR (October 11, 1995) page 52859, and effective on April 1, 1996.
- (E) Typographical and technical corrections at 1910.1027, Cadmium, published in 58 FR (April 23, 1993) pages 21778 - 21787 and effective on September 24, 1993; corrections are to final rule for Occupational Exposure to Cadmium as originally published in 57 FR 42101 (September 14, 1992).
- (F) Addition of 1910.1201 "Retention of DOT markings, placards, and labels," published in 59 FR (July 19,

1994) pages 36699 - 36700 and effective on November 1, 1994.

- (G) Final rule revisions to 1910.19(a), Special provisions for air contaminants, and revisions to 1910.1001, Asbestos, with amendments to Appendices A, B, D, F, G, and H and the addition of Appendix J, as published in 59 FR (August 10, 1994) pages 41057 - 41080; effective on February 1, 1995 with corresponding delayed effective dates as follows: 1910.1001(o)(3)(i) is effective May 1, 1995; 1910.1001(o)(3)(ii) is effective May 31, 1995; 1910.1001(o)(3)(iii) is effective May 1, 1995; 1910.1001(o)(3)(iv) is effective October 31, 1995; 1910.1001(o)(3)(v) is effective July 31, 1995; 1910.1001(o)(3)(vi) is effective May 1, 1995; 1910.1001(o)(3)(vii) is effective May 31, 1995; and 1910.1001(o)(3)(viii) is effective July 31, 1995; typographical and technical corrections to 1910.1001 including corrections to Appendices B, F, G and J, published in 60 FR (June 29, 1995) pages 33984 - 33987.

(c) Copies of the applicable Code of Federal Regulations sections referred to in this Subchapter are available to the public. Please refer to 13 NCAC 7A .0302 for the costs involved and from whom copies may be obtained.

*History Note: Filed as a Temporary Amendment Eff. August 16, 1993, for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;*  
*Authority G.S. 95-131; 95-133; 150B-21.6;*  
*Eff. August 2, 1993;*  
*Amended Eff. April 1, 1996; January 1, 1996; September 6, 1995; April 1, 1995;*  
*Temporary Amendment Eff. April 1, 1996.*



*This Section contains a listing of the rules to be reviewed by the Rules Review Commission (RRC) at the next meeting date as noted, and rules that RRC has objected to in accordance with G.S. 150B-21.9(a). State agencies are required to respond to RRC objections as provided in G.S. 150B-21.12(a).*

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**  
 Vernice B. Howard  
 Teresa L. Smallwood  
 Charles H. Henry  
 Philip O. Redwine - Vice Chairman

**Appointed by House**  
 Jennie J. Hayman - Chairman  
 Bill Graham  
 Paul Powell  
 Ed Shelton

**LOG OF FILINGS**  
**MEETING DATE: MAY 16, 1996**

**RULES SUBMITTED: MARCH 20, 1996 THROUGH APRIL 22, 1996**

**FOLLOW MATTERS:**

<b>JUSTICE/Private Protective Services Board -</b>	12 NCAC 7D .0808
<b>EHNR/Environmental Management Commission -</b>	15A NCAC 2H .0219
<b>EHNR/Commission for Health Services -</b>	15A NCAC 13B .1406, .1407, .1408, .1409
<b>PUBLIC INSTRUCTION/State Board of Education -</b>	16 NCAC 6D .0106
<b>Medical Board -</b>	21 NCAC 32H .0702

AGENCY/DIVI	RULE NAME	ACTION
<b>DHR/CMH/DD/SAS</b>		
	Scope	10 NCAC 15A .0115 Amend
	Explanation of Terms	10 NCAC 15A .0116 Amend
	Authorization	10 NCAC 15A .0117 Amend
	Authorization	10 NCAC 15A .0118 Amend
	Written Evaluation	10 NCAC 15A .0119 Amend
	Additional Information	10 NCAC 15A .0120 Amend
	Communication	10 NCAC 15A .0121 Amend
	General Criteria	10 NCAC 15A .0122 Amend
	Coordination	10 NCAC 15A .0123 Amend
	Notification	10 NCAC 15A .0124 Amend
	Placement of Clients	10 NCAC 15A .0125 Amend
	Resolution of Differences	10 NCAC 15A .0126 Amend
	Referrals of Minors	10 NCAC 15A .0127 Adopt
	Scope	10 NCAC 15A .0205 Repeal
	Definitions	10 NCAC 15A .0206 Repeal
	Written Consent	10 NCAC 15A .0207 Repeal
	Written Application	10 NCAC 15A .0208 Repeal
	Mandatory Screening	10 NCAC 15A .0209 Repeal
	Telephone Notification	10 NCAC 15A .0210 Repeal

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**RULES REVIEW COMMISSION**

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Referrals	10 NCAC 15A .0211	Repeal
Referrals	10 NCAC 15A .0212	Repeal
Use of Form	10 NCAC 15A .0213	Repeal
Screening	10 NCAC 15A .0214	Repeal
Written Agreements	10 NCAC 15A .0215	Repeal
Information	10 NCAC 15A .0216	Repeal
Notification	10 NCAC 15A .0217	Repeal
Sharing of Information	10 NCAC 15A .0218	Repeal
Ongoing Information	10 NCAC 15A .0219	Repeal
Failure of Area Program	10 NCAC 15A .0220	Repeal
Emergency Involuntary Commitment	10 NCAC 15A .0221	Repeal
Emergency Admissions	10 NCAC 15A .0222	Repeal
Area Program Procedures	10 NCAC 15A .0223	Repeal
Discharge Planning	10 NCAC 15A .0224	Repeal
Participants	10 NCAC 15A .0225	Repeal
Discharge of Minor	10 NCAC 15A .0226	Repeal
Discharge Planning	10 NCAC 15A .0227	Repeal
Discharge Plan Implementation	10 NCAC 15A .0228	Repeal

**DEPARTMENT OF INSURANCE**

Cancer Insurance	11 NCAC 12 .0551	Amend
Organizational Structure	11 NCAC 12 .0901	Adopt
Written Utilization Review Plan	11 NCAC 12 .0918	Adopt
Telephone Accessibility	11 NCAC 12 .0919	Adopt
Claim Reserve	11 NCAC 16 .0703	Amend
Application	11 NCAC 21 .0101	Adopt
Financial Statements	11 NCAC 21 .0102	Adopt
Determination	11 NCAC 21 .0103	Adopt
Service Contracts	11 NCAC 21 .0104	Adopt
Adjusting Claims	11 NCAC 21 .0105	Adopt
Payment of Claims	11 NCAC 21 .0106	Adopt
General Administration	11 NCAC 21 .0107	Adopt
Claims Administration	11 NCAC 21 .0108	Adopt
Marketing and Sales	11 NCAC 21 .0109	Adopt
Member Services	11 NCAC 21 .0110	Adopt

**DEHNR/ENVIRONMENTAL MANAGEMENT COMMISSION**

Fresh Surface Water Quality	15A NCAC 2B .0216	Amend
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**DEHNR/MARINE FISHERIES COMMISSION**

Prohibited Fishing Activity	15A NCAC 3I .0019	Adopt
Fishing Gear	15A NCAC 3J .0401	Amend

**DEHNR/COASTAL RESOURCES COMMISSION**

Purpose	15A NCAC 7H .2301	Adopt
Approval Procedures	15A NCAC 7H .2302	Adopt
Permit Fee	15A NCAC 7H .2303	Adopt
General Conditions	15A NCAC 7H .2304	Adopt
Specific Conditions	15A NCAC 7H .2305	Adopt

**DEHNR/WILDLIFE RESOURCES COMMISSION**

Permitted Archery Equipment	15A NCAC 10B .0116	Amend
Prohibited Taking	15A NCAC 10B .0201	Amend
Deer (White-Tailed)	15A NCAC 10B .0203	Amend
Quail	15A NCAC 10B .0208	Amend
Wild Turkey	15A NCAC 10B .0209	Amend
Wildcat (Bobcat)	15A NCAC 10B .0214	Amend

Nutria	15A NCAC 10B .0220	Amend
Open Seasons	15A NCAC 10B .0302	Amend
Bag Limits	15A NCAC 10B .0303	Amend
General Regulations	15A NCAC 10D .0002	Amend
Hunting on Game Lands	15A NCAC 10D .0003	Amend

**STATE BOARD OF EDUCATION**

Definitions	16 NCAC 1A .0001	Amend
Organization of Department	16 NCAC 1A .0003	Amend
School Calendar	16 NCAC 6A .0001	Repeal
Suspension	16 NCAC 6A .0002	Repeal
School Bus Drivers	16 NCAC 6B .0001	Repeal
School Bus Maintenance	16 NCAC 6B .0005	Repeal
School Bus Inspections	16 NCAC 6B .0006	Repeal
Definitions	16 NCAC 6C .0101	Amend
Criminal History Checks	16 NCAC 6C .0313	Amend
Basic Education Program	16 NCAC 6D .0102	Repeal
Exit Documents	16 NCAC 6D .0104	Repeal
Testing Requirements	16 NCAC 6D .0301	Amend
Test Administration	16 NCAC 6D .0302	Amend
Attendance Defined	16 NCAC 6E .0101	Amend
Attendance Excused	16 NCAC 6E .0102	Amend
Involuntary Suspensions	16 NCAC 6E .0104	Amend
Interscholastic Athletics	16 NCAC 6E .0202	Amend
Local School	16 NCAC 6G .0301	Repeal
Differentiated Pay	16 NCAC 6G .0302	Repeal
Flexible Funding	16 NCAC 6G .0303	Amend
Definitions	16 NCAC 6H .0001	Amend
Non-Instructional Special Education	16 NCAC 6H .0006	Amend
Special Education Assessment	16 NCAC 6H .0007	Amend
Surrogate Parents	16 NCAC 6H .0008	Amend

**DEPARTMENT OF REVENUE**

Dissolutions	17 NCAC 5C .2101	Amend
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**RULES REVIEW OBJECTIONS**

**ACUPUNCTURE LICENSING BOARD**

21 NCAC 1 .0709 - Procedure of Revocation of Licensure	RRC Objection	04/18/96
Agency Revised Rule	Obj. Removed	04/18/96

**AGRICULTURE**

**Pesticide Board**

2 NCAC 9L .1806 - Crop Advisor Exemption	RRC Objection	03/21/96
Agency Revised Rule	Obj. Removed	03/21/96

**AUCTIONEERS COMMISSION**

21 NCAC 4B .0202 - Filing and Fees	RRC Objection	03/21/96
Agency Revised Rule	Obj. Removed	03/21/96
21 NCAC 4B .0403 - Apprentice Auctioneer License	RRC Objection	03/21/96
Agency Revised Rule	Obj. Removed	03/21/96
21 NCAC 4B .0602 - Advertising	RRC Objection	03/21/96
Agency Revised Rule	Obj. Removed	03/21/96

**ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

**Coastal Resources Commission**

15A NCAC 7H .0208 - Use Standards	RRC Objection	03/21/96
Agency Revised Rule	Obj. Cont'd	03/21/96
Rule Returned to Agency	Obj. Cont'd	04/18/96
Agency Filed Rule for Codification Over RRC Objection	Eff.	05/01/96

**Environmental Management**

15A NCAC 2H .0219 - Minimum Design Requirements	RRC Objection	04/18/96
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**Commission for Health Services**

15A NCAC 13B .1401 - Requirement for Permit	RRC Objection	04/18/96
Agency Revised Rule	Obj. Removed	04/18/96
15A NCAC 13B .1402 - General Provisions for SW Compost Facilities	RRC Objection	04/18/96
Agency Revised Rule	Obj. Removed	04/18/96
15A NCAC 13B .1404 - Siting/Design Requirements for SW Compost Facilities	RRC Objection	04/18/96
Agency Revised Rule	Obj. Removed	04/18/96
15A NCAC 13B .1405 - Application Requirements for SW Compost Facilities	RRC Objection	04/18/96
Agency Revised Rule	Obj. Removed	04/18/96
15A NCAC 13B .1406 - Operational Requirements for Solid Waste Compost Facilities	RRC Objection	04/18/96
Agency Revised Rule	Obj. Cont'd	04/18/96
15A NCAC 13B .1407 - Classification/Distribution of Solid Waste Compost Products	RRC Objection	04/18/96
Agency Revised Rule	Obj. Cont'd	04/18/96
15A NCAC 13B .1408 - Methods for Testing and Reporting Requirements	RRC Objection	04/18/96
Agency Revised Rule	Obj. Cont'd	04/18/96
15A NCAC 13B .1409 - Approval of Alternative Procedures and Requirements	RRC Objection	04/18/96
15A NCAC 18A .1723 - Springs	RRC Objection	04/18/96
Agency Revised Rule	Obj. Removed	04/18/96
15A NCAC 18A .1727 - Continuous Disinfection		
Rule Withdrawn by Agency		04/18/96
15A NCAC 18A .1805 - Inspection Forms		
Rule Withdrawn by Agency		04/18/96

**Wildlife Resources Commission**

15A NCAC 10K .0001 - Course Requirements	RRC Objection	03/21/96
Agency Revised Rule	Obj. Removed	03/21/96
15A NCAC 10K .0003 - Instructor Certification Requirements		
Rule Withdrawn by Agency		03/21/96

**FEE-BASED PRACTICING PASTORAL COUNSELORS**

21 NCAC 45 .0201 - Information Required	RRC Objection	02/15/96
No Response from Agency	Obj. Cont'd	03/21/96
Agency Revised Rule	Obj. Removed	04/18/96
21 NCAC 45 .0301 - Types	RRC Objection	02/15/96
No Response from Agency	Obj. Cont'd	03/21/96
Agency Revised Rule	Obj. Removed	04/18/96
21 NCAC 45 .0402 - Second Notice	RRC Objection	02/15/96
No Response from Agency	Obj. Cont'd	03/21/96
Agency Revised Rule	Obj. Removed	04/18/96
21 NCAC 45 .0501 - Continuing Education Requirements	RRC Objection	02/15/96
No Response from Agency	Obj. Cont'd	03/21/96
Agency Revised Rule	Obj. Removed	04/18/96
21 NCAC 45 .0601 - Equivalency	RRC Objection	02/15/96
No Response from Agency	Obj. Cont'd	03/21/96



<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>04/18/96</i>
21 NCAC 45 .0701 - <i>Issuance of Temporary Certificate</i>	<i>RRC Objection</i>	<i>02/15/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>04/18/96</i>
21 NCAC 45 .0802 - <i>Types of Supervision</i>	<i>RRC Objection</i>	<i>02/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Cont'd</i>	<i>02/15/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>04/18/96</i>
21 NCAC 45 .0901 - <i>Requirements for Individual Psychotherapy Experience</i>	<i>RRC Objection</i>	<i>02/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Cont'd</i>	<i>02/15/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>04/18/96</i>
21 NCAC 45 .1001 - <i>Code of Ethics</i>	<i>RRC Objection</i>	<i>02/15/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>04/18/96</i>

## HEARING AID DEALERS AND FITTERS BOARD

21 NCAC 22L .0001 - <i>Committee on Investigations</i>	<i>Extended Review</i>	<i>01/18/96</i>
<i>RRC Reviewed Rule</i>	<i>RRC Objection</i>	<i>02/15/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>03/21/96</i>

## HUMAN RESOURCES

### Medical Care Commission

10 NCAC 3C .5401 - <i>Definitions</i>	<i>RRC Objection</i>	<i>01/18/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>02/15/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>05/01/96</i>
10 NCAC 3C .5402 - <i>Physician Req for Inpatient Rehabilitation Facilities or Units</i>	<i>RRC Objection</i>	<i>01/18/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>02/15/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>05/01/96</i>
10 NCAC 3C .5407 - <i>Comprehensive Rehabilitation Personnel Administration</i>	<i>RRC Objection</i>	<i>01/18/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>02/15/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>05/01/96</i>
10 NCAC 3C .5408 - <i>Comprehensive Inpatient Rehabilitation Program Staffing Req.</i>	<i>RRC Objection</i>	<i>01/18/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>02/15/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>05/01/96</i>
10 NCAC 3C .5409 - <i>Staff Training for Inpatient Rehabilitation Facilities or Unit</i>	<i>RRC Objection</i>	<i>01/18/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>02/15/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>05/01/96</i>
10 NCAC 3C .5412 - <i>Additional Requirements for Traumatic Brain Injury Patients</i>	<i>RRC Objection</i>	<i>01/18/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>02/15/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>05/01/96</i>
10 NCAC 3C .5413 - <i>Additional Requirements for Spinal Cord Injury Patients</i>	<i>RRC Objection</i>	<i>01/18/96</i>
<i>Agency Responded</i>	<i>Obj. Cont'd</i>	<i>02/15/96</i>
<i>Rule Returned to Agency</i>	<i>Obj. Cont'd</i>	<i>03/21/96</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>	<i>Eff.</i>	<i>05/01/96</i>

### Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

10 NCAC 15A .0100 and .0200		
<i>Rules Withdrawn by Agency</i>		<i>03/21/96</i>

**Social Services Commission**

- 10 NCAC 39D .0304 - *Alternative Work Experience*
- Agency Responded  
    RRC Reconsidered this Rule
- 10 NCAC 46D .0106 - *Allocation*
- Rule Withdrawn by Agency
- 10 NCAC 46D .0107 - *Reimbursement*
- Rule Withdrawn by Agency
- 10 NCAC 46D .0202 - *Review Criteria for Start-Up Funds*
- Rule Withdrawn by Agency

*Extended Review* 01/18/96  
RRC Objection 02/15/96  
Obj. Cont'd 03/21/96  
Obj. Removed 04/18/96  
RRC Objection 01/18/96  
Obj. Cont'd 03/21/96  
RRC Objection 01/18/96  
Obj. Cont'd 03/21/96  
RRC Objection 01/18/96  
Obj. Cont'd 03/21/96

**INSURANCE**

**Agent Services Division**

- 11 NCAC 6A .0904 - *Regulatory Matters*
- Agency Revised Rule

RRC Objection 03/21/96  
Obj. Removed 03/21/96

**Consumer Services Division**

- 11 NCAC 4 .0502 - *Assumed Expenses and Current Scale*
- Agency Revised Rule
- 11 NCAC 4 .0505 - *Standards for Basic Illustrations*
- Agency Revised Rule
- 11 NCAC 4 .0506 - *Standards for Supplemental Illustrations*
- Agency Revised Rule
- 11 NCAC 4 .0509 - *Annual Certifications*
- Agency Revised Rule

RRC Objection 03/21/96  
Obj. Removed 03/21/96  
RRC Objection 03/21/96  
Obj. Removed 03/21/96  
RRC Objection 03/21/96  
Obj. Removed 03/21/96  
RRC Objection 03/21/96  
Obj. Removed 03/21/96

**JUSTICE**

**Private Protective Services**

- 12 NCAC 7D .0808 - *Concealed Weapons*
- No Response from Agency

RRC Objection 03/21/96  
Obj. Cont'd 04/18/96

**MARITAL AND FAMILY THERAPY CERTIFICATION BOARD**

- 21 NCAC 31 .0102 - *Address*
- No Response from Agency  
    Agency Repealed Rule
- 21 NCAC 31 .0104 - *Fees*
- No Response from Agency  
    Agency Repealed Rule
- 21 NCAC 31 .0304 - *Subsequent Reexaminations*
- No Response from Agency  
    Rule Withdrawn by Agency
- 21 NCAC 31 .0502 - *Approved Supervision*
- No Response from Agency  
    Agency Revised Rule

RRC Objection 02/15/96  
Obj. Cont'd 03/21/96  
Obj. Removed 04/18/96  
RRC Objection 02/15/96  
Obj. Cont'd 03/21/96  
Obj. Removed 04/18/96  
RRC Objection 02/15/96  
Obj. Cont'd 03/21/96  
Obj. Cont'd 04/18/96  
RRC Objection 02/15/96  
Obj. Cont'd 03/21/96  
Obj. Removed 04/18/96

**MEDICAL BOARD**

- 21 NCAC 32H .0101 - *Authority: Intent and Goals*
- Agency Repealed Rule
- 21 NCAC 32H .0303 - *Sponsor Hospital*
- Agency Revised Rule
- 21 NCAC 32H .0402 - *Emergency Medical Technician-Paramedic Performance*

RRC Objection 04/18/96  
Obj. Removed 04/18/96  
RRC Objection 04/18/96  
Obj. Removed 04/18/96  
RRC Objection 04/18/96

<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>04/18/96</i>
21 NCAC 32H .0403 - <i>Emergency Medical Technician-Intermediate Performance</i>	<i>RRC Objection</i>	<i>04/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>04/18/96</i>
21 NCAC 32H .0406 - <i>Emergency Medical Tech.: Advanced Intermediate Performance</i>	<i>RRC Objection</i>	<i>04/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>04/18/96</i>
21 NCAC 32H .0702 - <i>Requests</i>	<i>RRC Objection</i>	<i>04/18/96</i>

## **NURSING**

21 NCAC 36 .0228 - <i>Clinical Nurse Specialist Practice</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>03/21/96</i>

## **NURSING HOME ADMINISTRATORS**

21 NCAC 37C .0101 - <i>Petitions for Adoption of Rules</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
21 NCAC 37C .0102 - <i>Procedure for Adoption of Rules</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
21 NCAC 37D .0412 - <i>Initial On-the-Job Training</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
21 NCAC 37F .0101 - <i>Prerequisites for Temporary Licensure</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
21 NCAC 37I .0101 - <i>Investigation: Discipline: and Contested Case Proceedings</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>03/21/96</i>

## **PUBLIC EDUCATION**

### **State Board of Education**

16 NCAC 6D .0106 - <i>Limited English Proficiency Programs</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>04/18/96</i>

## **SECRETARY OF STATE**

### **Boxing Commission**

18 NCAC 9 .0101 - <i>Purpose, Applicability and Scope of the Rules</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
18 NCAC 9 .0103 - <i>North Carolina State Boxing Commission</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
18 NCAC 9 .0104 - <i>Conduct of Boxing Matches</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Rewrote Rule as 18 NCAC 9 .0104 through .0109</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
18 NCAC 9 .0106 - <i>Licensing Requirements and Duties of Licensees</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule and Recodified to 18 NCAC 9 .0111</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
18 NCAC 9 .0107 - <i>Contracts and Financial Arrangements</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Revised Rule and Recodified to 18 NCAC 9 .0112</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
18 NCAC 9 .0108 - <i>Kickboxing</i>	<i>RRC Objection</i>	<i>03/21/96</i>
<i>Agency Rewrote Rule as 18 NCAC 9 .0113 through .0116</i>	<i>Obj. Removed</i>	<i>03/21/96</i>
18 NCAC 9 .0117 - <i>Toughman Match</i>	<i>RRC Objection</i>	<i>04/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>04/18/96</i>

## **SUBSTANCE ABUSE PROFESSIONALS**

21 NCAC 68 .0101 - <i>Definitions</i>	<i>RRC Objection</i>	<i>04/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>04/18/96</i>
21 NCAC 68 .0206 - <i>Process for Prevention Consultant Certification</i>	<i>RRC Objection</i>	<i>04/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>04/18/96</i>
21 NCAC 68 .0403 - <i>Employer Inservice Event</i>	<i>RRC Objection</i>	<i>04/18/96</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>04/18/96</i>

**VETERINARY MEDICAL BOARD**

21 NCAC 66		
<i>Rules Withdrawn by Agency</i>		03/21/96
21 NCAC 66 .0203 - <i>License Required to Practice; Faculty Cert.; Zoo Veterinary Cert.</i>	RRC Objection	04/18/96
<i>Agency Revised Rule</i>	Obj. Removed	04/18/96
21 NCAC 66 .0206 - <i>Minimum Standards for Continuing Education</i>	RRC Objection	04/18/96
<i>Agency Revised Rule</i>	Obj. Removed	04/18/96
21 NCAC 66 .0207 - <i>Minimum Facility and Practice Standards</i>	RRC Objection	04/18/96
<i>Agency Revised Rule</i>	Obj. Removed	04/18/96
21 NCAC 66 .0301 - <i>Application and Examination</i>	RRC Objection	04/18/96
<i>Agency Revised Rule</i>	Obj. Removed	04/18/96
21 NCAC 66 .0303 - <i>Spcl./Reg./Vet./Tech./Interns/Precep;Renewal/Tech./Reg</i>	RRC Objection	04/18/96
<i>Agency Revised Rule</i>	Obj. Removed	04/18/96
21 NCAC 66 .0606 - <i>Who Shall Hear Contested Cases</i>	RRC Objection	04/18/96
<i>Agency Revised Rule</i>	Obj. Removed	04/18/96
21 NCAC 66 .0703 - <i>Subpoenas</i>	RRC Objection	04/18/96
<i>Agency Revised Rule</i>	Obj. Removed	04/18/96



*This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.*

DECISION CITATION	AGENCY	CASE NUMBER	ALJ	DATE OF DECISION	PUBLISHED REGISTER
<b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b>					
Alcoholic Beverage Control Commission v. Tremik, Inc.		95 ABC 0925	Morriosn	03/25/96	
Alcoholic Beverage Control Commission v. Huffman Oil Co., Inc.		95 ABC 1251	West	04/03/96	11:03 NCR 166
Pinakin P. Talate v. Alcoholic Beverage Control Commission		95 ABC 1329	West	04/10/96	
Alcoholic Beverage Control Commission v. Henry Franklin Gurganus		95 ABC 1389	West	04/01/96	
Andrew Parker v. Alcoholic Beverage Control Commission		95 ABC 1402	Phipps	03/27/96	
Barraq Sahri Alquza v. Alcoholic Beverage Control Commission		95 ABC 1424	Phipps	04/03/96	
Alcoholic Beverage Control Comm. v. Partnership T/A T & L Groceries		95 ABC 1443	West	03/26/96	
Alcoholic Beverage Control Commission v. Cashion's Food Mart, Inc.		95 ABC 1444	Gray	03/13/96	
Bro Bee, Inc. v. Alcoholic Beverage Control Commission		95 ABC 1480	West	04/15/96	
Alcoholic Beverage Control Commission v. Donald Ray Doak		95 ABC 1488	West	03/29/96	
George Wright and Alice Ramsuer v. Alcoholic Beverage Control Comm.		96 ABC 0058	Becton	04/16/96	
<b>CRIME CONTROL AND PUBLIC SAFETY</b>					
Helen B. Hunter-Reid v. Crime Victims Compensation Commission		95 CPS 1336	Nesnow Smith	03/29/96	11:02 NCR 93
Kenneth Saunders v. Victims Compensation Commission		95 CPS 1445	Chess	03/26/96	
Manuel Cervantes v. Victims Compensation Fund		96 CPS 0118	Chess	03/19/96	
<b>ENVIRONMENT, HEALTH, AND NATURAL RESOURCES</b>					
Kinston Urological Associates, P.A. v. N.C. Cancer Program		95 EHR 1198*2	Nesnow Smith	03/27/96	11:02 NCR 97
Kinston Urological Associates, P.A. v. N.C. Cancer Program		95 EHR 1199*2	Nesnow Smith	03/27/96	11:02 NCR 97
<i>Coastal Resources</i>					
J. E. Smith Construction Co. v. Division of Coastal Management		96 EHR 0074	Nesnow Smith	02/23/96	
<i>Environmental Management</i>					
Conover Lumber Co., Inc. v. EHNHR, Division of Environmental Mgmt.		95 EHR 1081	Reilly	04/12/96	
Jack West d/b/a Jack West Tree Service v. Environmental Mgmt. Comm.		95 EHR 1421	Morrison	04/08/96	
<i>Land Resources</i>					
K&G Properties, Inc. v. EHNHR, Division of Land Resources		95 EHR 1078	Nesnow Smith	03/25/96	
<i>Marine Fisheries</i>					
Robert I. Swinson, Sr. v. EHNHR, Health & Nat. Res., Marine Fisheries		95 EHR 0320	Chess	03/29/96	11:03 NCR 168
Grayden L. Fulcher and Michael Styron, Sr. v. Div. of Marine Fisheries		96 EHR 0003	Reilly	03/06/96	
<i>WIC Program</i>					
Lazelle Marks v. EHNHR, Division of Maternal and Child Health		95 EHR 0870	West	03/27/96	
Bob's Quick Mart, Bobby D. Braswell v. Env., Health, & Natural Res.		96 EHR 0091	Nesnow Smith	04/02/96	
Larry E. Mis v. USDA-Food/Cons Svc, Cory Menees-WIC Prog., EHNHR		96 EHR 0164	Phipps	03/19/96	
<b>HUMAN RESOURCES</b>					
Cassandra M. Deshazo v. Christine E. Carroll, Chf Chld Abuse/Neg. Sec.		95 DHR 1410	Phipps	03/28/96	
Medicus Robinson v. Department of Human Resources		96 DHR 0167	Nesnow Smith	04/12/96	

# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>Division of Child Development</i>				
Mary T. Hill v. DHR, Division of Child Development	95 DHR 1192	Phipps	03/27/96	
<i>Division of Facility Services</i>				
Eloise Brown v. Dept. of Human Resources, Division of Facility Services	95 DHR 1002	Phippa	03/07/96	
<i>Group Care Licensure Section</i>				
Alex L. McCall v. DHR, Div/Facility Svcs, Group Care Licensure Sec.	95 DHR 1456	Nesnow Smith	03/26/96	
<i>Division of Social Services</i>				
Rozena Chambliss v. Department of Human Resources	95 DHR 1044	Nesnow Smith	03/12/96	
Addie & Major Short v. Department of Human Resources	95 DHR 1063	Morrison	03/19/96	
Mr. and Mrs. Jessie Stevenson v. DHR, Division of Social Services	95 DHR 1072	Phipps	03/15/96	
William G. Fisher v. DHR, Div. of Social Services, Prog Integrity Branch	95 DHR 1234	Morrison	03/19/96	
Verna F. Nunn v. Department of Human Resources	95 DHR 1330	Gray	04/11/96	
<i>Child Support Enforcement Section</i>				
Richard R. Fox, Sr. v. Department of Human Resources	95 CSE 1169	Becton	03/19/96	
Joselito D. Pilar v. Department of Human Resources	95 CSE 1180	Chess	03/01/96	
David Lee Grady v. Department of Human Resources	95 CSE 1218	Morrison	03/26/96	
Patrick Orlando Crump v. Department of Human Resources	95 CSE 1221	Nesnow Smith	03/05/96	
Peter Robert Kovolsky v. Department of Human Resources	95 CSE 1230	Becton	03/11/96	
Lawrence Dow Dean v. Department of Human Resources	95 CSE 1267	Morrison	03/29/96	
Carl E. Coffey v. Department of Human Resources	95 CSE 1270	Nesnow Smith	03/15/96	
Keith Dewayne Senters v. Department of Human Resources	95 CSE 1273	Phipps	04/01/96	
Mickey Turner v. Department of Human Resources	95 CSE 1278	Nesnow Smith	03/14/96	
James Joseph Gallagher v. Department of Human Resources	95 CSE 1280	Chess	03/19/96	
James Thomas McRae v. Department of Human Resources	95 CSE 1296	Chess	03/15/96	
David J. Moseley v. Department of Human Resources	95 CSE 1304	Chess	03/29/96	
Derrick L. Conyers v. Department of Human Resources	95 CSE 1308	Reilly	03/13/96	
Charles Edward Smith v. Department of Human Resources	95 CSE 1309	West	03/07/96	
James Curtis Witwer v. Department of Human Resources	95 CSE 1331	Becton	03/26/96	
Thornell Bowden v. Department of Human Resources	95 CSE 1345	Morrison	03/07/96	
Henry S. Sada v. Department of Human Resources	95 CSE 1367	Nesnow Smith	03/21/96	
Charles F. Moore v. Department of Human Resources	95 CSE 1369	Chess	03/27/96	
Daniel Leslie Baker v. Department of Human Resources	95 CSE 1373	Morrison	03/12/96	
John L. Pike v. Department of Human Resources	95 CSE 1376	Nesnow Smith	03/21/96	
Wm. R. Evans v. Department of Human Resources	95 CSE 1377	Becton	03/11/96	
Rory J. Curry v. Department of Human Resources	95 CSE 1380	Mann	03/15/96	
Marcus Anthony Butts v. Department of Human Resources	95 CSE 1405	Nesnow Smith	03/27/96	
Cynthia Pinder v. Department of Human Resources	95 CSE 1406	Becton	03/11/96	
Ramon Domenech v. Department of Human Resources	95 CSE 1408	Phipps	03/11/96	
Dennis L. McNeill v. Department of Human Resources	95 CSE 1435	Becton	03/13/96	
Rick E. Atkins v. Department of Human Resources	95 CSE 1437	Phipps	04/01/96	
Timothy A. Ratley (Jeane) v. Department of Human Resources	95 CSE 1465	Morrison	03/26/96	
Wilbur Dewayne Bault v. Department of Human Resources	95 CSE 1475	West	03/13/96	
Ronald D. Johnson v. Department of Human Resources	96 CSE 0084	Nesnow Smith	03/27/96	
John W. Scott v. Department of Human Resources	96 CSE 0130	Mann	03/15/96	
Jeanne G. Bishop v. Department of Human Resources, Child Sup. Enf.	95 DCS 0958	West	04/04/96	
Laura Heidorf v. Department of Human Resources, Child Support Enf.	96 DCS 0065	Reilly	03/22/96	
<b>INSURANCE</b>				
Carol M. Hall v. Teachers & State Employees Comp. Major Medical Plan	95 INS 1141	Phipps	04/01/96	
Nadia A. Hakim v. Department of Insurance	95 INS 1422	Nesnow Smith	03/26/96	
<b>JUSTICE</b>				
<i>Education and Training Standards Division</i>				
Freddie Levern Thompson v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 0731	Chess	02/29/96	
Valerie Maxine Brewington v. Criml. Justice Ed. & Training Stds. Comm.	95 DOJ 1129	Nesnow Smith	04/12/96	
Patricia Josephine Bonanno v. Sheriffs' Ed. & Training Stda. Comm.	95 DOJ 1152	Chess	03/25/96	

# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Rick M. Evoy v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 1235	Chess	03/25/96	
Gregory Lee Daughtridge v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0027	Reilly	03/19/96	
Carlton Gerald v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0068	Gray	03/26/96	
Ken Montic Oxendine v. Criminal Justice Ed. & Training Stds. Comm.	96 DOJ 0071	West	03/28/96	
David Kent Knight v. Sheriffs' Ed. & Training Stds. Comm.	96 DOJ 0115	West	03/28/96	
<i>Private Protective Services Board</i>				
Timothy A. Hawkins v. Private Protective Services Board	95 DOJ 1419	West	04/12/96	
William F. Combs v. Private Protective Services Board	96 DOJ 0022	West	03/22/96	
<b>PUBLIC INSTRUCTION</b>				
Lavern K. Suggs v. NC Board of Education	95 EDC 0383	Nesnow Smith	03/13/96	11:01 NCR 50
J.T.S. & T.S., Parents of E.M.S. v. Chapel Hill-Carrboro City Schl. Sys.	95 EDC 1194	Mann	04/12/96	
<b>STATE PERSONNEL</b>				
<i>Administrative Office of the Court</i>				
Ethel R. Tyson v. NC Judicial Dept., Administrative Office of the Court	96 OSP 0080	Nesnow Smith	03/15/96	
<i>Appalachian State University</i>				
Janice S. Walton v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0062	West	03/13/96	
Janice S. Carroll v. Appalachian St University, Claude Cooper, Bill Ragan	96 OSP 0063	West	03/07/96	
<i>Caldwell County</i>				
Blake C. Pace v. Caldwell County	96 OSP 0047	Morrison	04/01/96	
<i>Department of Correction</i>				
Haydee Craver v. Department of Correction, Pender Correctional Inst.	95 OSP 1046	Gray	03/12/96	
Brenda Propst v. Foothills Correctional Institution	96 OSP 0199	Morrison	04/09/96	
<i>Department of Environment, Health, and Natural Resources</i>				
Roberta Ann "Robin" Hood v. Environment, Health, & Natural Resources	95 OSP 0035	Reilly	04/09/96	
<i>Department of Human Resources</i>				
Ophelia Webb v. Edard R. Inman, Dir. Alamance Cty DSS, Alamance Cty DSS, Alamance County, and DHR	96 OSP 0112	Gray	03/13/96	
<i>Caswell Center</i>				
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	89 OSP 0411	Becton	03/26/96	
Ramona C. Jenkins v. Department of Human Resources, Caswell Center	91 OSP 0522	Becton	03/26/96	11:02 NCR 89
Franklin D. Sutton v. Department of Human Resources, Caswell Center	94 OSP 0766	Nesnow Smith	03/21/96	
<i>Department of Labor</i>				
Kevin P. Kolbe, Sr. v. Department of Labor	95 OSP 0968	Morrison	03/14/96	11:01 NCR 58
<i>New Hanover County Board of Health</i>				
Tabandeh Zand v. New Hanover County Board of Health	95 OSP 1035	Nesnow Smith	03/01/96	
<i>Department of Transportation</i>				
Pearlie M. Simuel-Johnson v. Department of Transportation	94 OSP 0589-1	Gray	03/01/96	
Dorothy J. Grays v. Div. of Motor Vehicles, Dept. of Transportation	94 OSP 1044	Reilly	04/12/96	11:03 NCR 173
Pearlie M. Simuel-Johnson v. Department of Transportation	95 OSP 0837*1	Gray	03/01/96	

\* Consolidated cases.

# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Melvin Duncan v. Department of Transportation	95 OSP 1462	Morrison	03/08/96	
Jesse Wayne Castle v. State Highway Maint., Guess Rd., Durham, NC	96 OSP 0087	Gray	04/15/96	
<i>Tri-County Mental Health Complex</i>				
Deborah Heil v. Tri-County Mental Health Complex	95 OSP 1100	Nesnow Smith	03/22/96	
<i>University of North Carolina</i>				
Jerel H. Bonner v. School of Nursing UNC at Chapel Hill	96 OSP 0026	Gray	03/12/96	11:01 NCR 61
UNIVERSITY OF NORTH CAROLINA				
Sylvia Jeffries v. University of NC Hospitals at Chapel Hill	96 UNC 0067	Gray	04/16/96	



**NC ABC COMMISSION,  
Petitioners**

**V.**

**HUFFMAN OIL COMPANY, INC., T/A  
MOUNTAIN VIEW TEXACO  
Respondent**

## RECOMMENDED DECISION

This contested case was heard in Raleigh, North Carolina, on February 27, 1996 by Administrative Law Judge Thomas R. West.

## APPEARANCES

Petitioner, N.C. Alcoholic Beverage Control Commission was represented by Deputy General Counsel Glenn B. Lassiter, Jr.

Respondent Huffman Oil Company, Inc. T/A Mountain View Texaco was represented by Pamela S. Duffy of the law firm of Wishart, Norris, Henninger & Pittman, P.A. in Burlington, North Carolina.

## EXHIBITS

- P1 - Copy of Limited Driving Privilege presented by Shambley  
P2 - Original of Limited Driving Privilege presented by Shambley  
P3 - Appalachian State University Student I.D. Card for Kevin Eugene Shambley

**WITNESSES**

Christopher Waters	-	ALE Agent
Mary Winkler Duggins	-	Clerk, Mountain View Texaco
Kevin Eugene Shambley		
Mike Scott	-	Supervisor, Huffman Oil

## ISSUE

Is it a valid defense, pursuant to G.S. 18B-302(d)(2), for Respondent to have sold beer to Kevin Shambley, a person under the age of 21 years, when Shambley presented a valid picture I.D. card correctly identifying him as Kevin Eugene Shambley, and a falsified Limited Driving Privilege correctly identifying Shambley but falsely showing him to be 21 years of age?

## FINDINGS OF FACT

1. Respondent Huffman Oil Company T/A Mountain View Texaco holds permits from Petitioner ABC Commission to sell beer, wine and fortified wine for consumption off-premises.
2. Mountain View Texaco is located at 1414 Highway 70 East in Hillsborough, North Carolina. The ABC Commission has not taken any action with regard to the business' permits prior to this contested case.
3. On Friday, April 7, 1995 at 10:35 p.m., Kevin Eugene Shambley purchased two six-packs of beer and four wine coolers from Mountain View Texaco. The clerk who handled the sale was Mary Winkler Duggins. Shambley

was 20 years and 8 months of age on the date of the purchase.

4. On July 29, 1994, Shambley was convicted, in Watauga County, of driving while impaired in violation of G.S. 20-138.1. On that same date, Shambley was issued by the Court a Limited Driving Privilege pursuant to G.S. 20-179.3.

5. The Limited Driving Privilege was issued to Shambley because Shambley's driver's license had been revoked as a result of his driving while impaired.

6. At some point after being issued the Limited Driving Privilege, Shambley made a photocopy of it and "whited out" his actual birth date of "08-07-74" which had been typed on the document. Shambley typed in "08-07-73." Shambley then photocopied the altered copy several times until the "white-out" was no longer visible. Shambley then soiled the falsified document to make it look used.

7. If Shambley had been born on August 7, 1973, he would have been 21 years of age on April 7, 1995.

8. The store clerk who sold alcohol to Shambley at Mountain View Texaco was Mary Winkler Duggins. When Shambley came to the check-out counter with the two six-packs and four wine coolers, Duggins asked Shambley for his I.D. Shambley produced a valid identification card from Appalachian State University with his picture on it, introduced as Exhibit P3, and the falsified Limited Driving Privilege, introduced as Exhibit P2.

9. The Limited Driving Privilege introduced as Exhibit P2 appears to be a valid ORDER issued by the North Carolina General Court of Justice. The falsified birth date does not appear to be falsified.

#### CONCLUSIONS OF LAW

1. Respondent has produced evidence of facts that reasonably indicated at the time Shambley purchased the alcoholic beverages on April 7, 1995 that Shambley was at least 21 years of age.

#### RECOMMENDED DECISION

It is recommended that no action be taken against Respondent.

#### ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, PO Drawer 27447, Raleigh, NC 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

#### NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the N.C. ABC Commission.

This the 3rd day of April, 1996.

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Thomas R. West  
Administrative Law Judge

STATE OF NORTH CAROLINA

COUNTY OF PENDER

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
95 EHR 0320

ROBERT I. SWINSON, SR.,  
Petitioner,

v.

NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENT, HEALTH AND NATURAL  
RESOURCES, DIVISION OF MARINE  
FISHERIES  
Respondent.

RECOMMENDED DECISION

This matter was heard before Administrative Law Judge Sammie Chess, Jr., on September 15, 1995 in Burgaw, North Carolina.

Petitioner filed a Petition for a Contested Case Hearing on March 23, 1995 in order to appeal respondent Division of Marine Fisheries' Notice of Intent to Terminate petitioner's Shellfish Lease No. 536.

### APPEARANCES

For Petitioner: Robert I. Swinson, Sr., *pro se*  
1672 Watts Landing Road  
Hampstead, NC 28443

For Respondent: Jay L. Osborne  
Assistant Attorney General  
N.C. Department of Justice  
P.O. Box 629  
Raleigh, North Carolina 27602-0629

### ISSUE

1. Whether respondent properly intends to terminate petitioner's shellfish lease, pursuant to N.C.G.S. § 113-202, 15A NCAC 30 .0200 *et seq.* and rules referred to or incorporated there in, for failure to locate and mark shellfish lease no. 536 in its proper location? Petitioner expressly does not contest Respondent's March 3, 1995 NOTICE OF DENIAL OF SHELLFISH LEASE APPLICATION and all issues associated with said DENIAL are not before this court.

The undersigned makes the following:

### FINDINGS OF FACT

#### A. Events Culminating in the Filing of this Contested Case

1. In January 1994, respondent North Carolina Division of Marine Fisheries received a complaint concerning the posted size of lease number 536. The complainant complained that Lease No. 536 was not properly marked and that it was encompassing within its boundaries a natural shellfish bed in violation of N.C.G.S. § 113-202. (Tp 23, R11 and 12).

2. In response to the complaint respondent, through the office of Mike Marshall Section Chief of the Resource Enhancement Section (Tp 14), requested that Mr. Loie Priddy survey lease no. 536.

3. Mr. Loie Priddy is a Registered Land Surveyor in the State of North Carolina and is chief of the Coastal Survey Unit for the North Carolina Geodetic Survey. (Tp 51, R11).

4. On February 22, 1994, Mr. Loie Priddy completed a certified survey of, among other things, the actual lease location of Lease Number 536 as compared to the area posted as lease number 536.

5. Based on Mr. Loie Priddy's survey, former Division of Marine Fisheries Director William T. Hogarth issued a *NOTICE OF INTENT TO TERMINATE SHELLFISH LEASE 536*, addressed to Robert Swinson and dated March 17, 1994.

B. Legal Provisions of Shellfish Lease No. 536

6. Renewal Lease of Shellfish Bottom, Lease No. 536, contains the following legal description:  
Beginning at a stake in Bluff Bay, Pender County, N.C., said stake being approximately 300 yards in a northeasterly direction from Bluff Point and runs S. 54°-05' W. 348 feet to a stake; thence N 23°-5' W. 910 feet to a stake; thence N. 60°-15' E. 321 feet to a stake; thence S. 25°-12' E. 872 feet to the beginning, containing 6.8 acres.

7. The legal description of the shellfish lease no. 536 has not changed since the original lease no. 536 was granted to lessee W.S. Dowless in 1951. (See Respondent's Exhibits 1 - 10).

8. Robert I. Swinson, Sr. is the lessee and the State of North Carolina is the lessor of a *RENEWAL LEASE OF SHELLFISH BOTTOM*, Lease number 536. Lessor and lessee entered into this renewal lease on June 13, 1991. The lease term runs for a period of ten years from April 1, 1991. (Respondent's Exhibit Number 1 ("R1")).

9. Paragraph 2 of the terms of lease number 536 provides that, "this Lease is subject to all of the provisions of N.C. Statutes now in effect or hereafter enacted and all of the regulations of the North Carolina Marine Fisheries Commission now in effect or hereafter adopted." (R1).

10. Paragraph 4 of the terms of the lease number 536 provide in part that "[i]t is agreed that upon failure on the part of the lessee to serve or carry out any of the above provisions or any of the provisions incorporated by reference or any of the following conditions imposed on the leased premises by the Secretary of the North Carolina Department of Environment, Health and Natural Resources, this Lease shall be terminated."

C. Determination of the Legal Boundaries of Lease No. 536

11. Testimony by both registered land surveyors, Mr. Priddy (for the respondent) and Mr. Padgett (for the petitioner), concluded that the legal description of Lease No. 536 alone was too vague to determine its proper location. The initial point at which to begin the survey is outlined in lease no. 536 as follows: "Beginning at a stake in Bluff Bay, Pender County, N.C., said stake being approximately 300 yards in a northeasterly direction from Bluff Point...." Neither Mr. Priddy nor Mr. Padgett could locate the stake in Bluff Bay. Neither Mr. Priddy nor Mr. Padgett could locate a definitive point to be Bluff Point. Neither surveyor could determine from the lease description the starting point to survey lease no. 536.

12. Mr. Priddy testified that "ties" are used by registered surveyors to determine the boundaries of surveys. Ties are fixed points on which a surveyor can rely for accuracy. A surveyor "ties in" to a fixed point and plots his or her survey from this beginning point. Mr. Priddy offered uncontroverted testimony that registered land surveyors are taught to rely first on naturally occurring markers to establish a tie and that such reliance is the professional standard for registered land surveyors. (Tp 81). As stated above, Bluff Point was not a definable tie for surveying purposes.

13. Both surveyors testified that, given coastal weather and water conditions, boundary stakes of shellfish leases shift and move. (Tp. 154, 168).

1. Petitioner's Survey

14. Petitioner's submitted survey purports only to mark the boundaries of Lease No. 536 as it is posted in the water. Registered Land Surveyor Danny Marco Padgett performed the survey and completed the accompanying map of the survey. Mr. Padgett testified that from the legal description of Lease 536, it was impossible to accurately locate the legal boundaries of Lease No. 536. Therefore, Mr. Padgett "actually surveyed the posted line that is posted there [in the water] today [August 1995]. That is what this survey (petitioner's exhibit 1) represents." (Tp. 153).



15. Mr. Padgett testified that the orientation of Lease No. 536 as posted inaccurately varies from its legal description by 14 to 24 degrees. (Tp 163). Mr. Priddy also testified that lease no. 536 is oriented inaccurately. Mr. Padgett's survey in part ties Lease No. 536 in with stakes of other leases as those leases are marked in the water. (Tp 168). Mr. Padgett's survey does not purport to tie in lease no. 536 with the legal descriptions of other leases. (Tp 169). Petitioner offered into evidence no survey marking the legal boundaries of Lease No. 536, and only offered evidence of lease no. 536 as posted in the water.

## 2. Respondent's Survey

16. Mr. Priddy testified that in order to accurately determine the legal boundary of lease No. 536, legal descriptions of adjoining shellfish leases (active and inactive) must be examined and a "lease chain reconstruction" must be completed. "Lease chain reconstruction" examines leases with common boundaries or close boundaries and attempts to establish a contiguous chain of leases until a good "tie" can be determined.

17. Using "lease chain reconstruction," Mr. Priddy testified that he examined leases and former leases which adjoined lease no. 536. By determining a common boundary line between lease no. 536 and adjoining leases, a surveyor could determine an accurate "tie" on an adjoining lease. By plotting the leases and their adjoining boundaries, a surveyor can use the "tie" on one lease to determine the legal boundaries of lease no. 536. (See Respondent's Exhibit 14).

18. (Former) lease no. 615 declared two of its boundary points to be located on two points of marsh in Bluff Bay. Mr. Priddy testified that these two points were very prominent and specific. (Tp 76). Mr. Priddy testified that these two points were shown geographically on the original survey of Lease No. 615. (Tp. 83). Mr. Priddy testified that these two points offered the best "tie-ins" to reconstruct the legal position of the lease. Surveyor Padgett, while doubting the accuracy of any relevant "tie in" point, testified that "it's [the two boundary points in lease no. 615] the most accurate thing that's out there in the area, yes." (Tp 174).

19. As Chief of North Carolina's Coastal Survey Unit, Mr. Priddy has worked with the problem of erosion as it relates to coastal surveying. (Tp 52). Mr. Priddy has completed several publications on the topic of erosion as it relates to coastal surveying. (Tp 52).

A. Mr. Priddy testified that in his opinion erosion would not be a significant factor on the boundary points of lease no. 615 because the area does not have the necessary prevailing wind to cause significant erosion. Also, because of barrier islands on the opposite shoreline are relatively close and tree lined, there is not enough distance over the water to create enough "fetch" to cause significant erosion. (Tp. 106, line 18 to Tp 107, line 3). Mr. Priddy testified that, given the geographical and weather conditions of the area, these points could have eroded approximately ten feet since 1951. (Tp 170).

B. Surveyor Padgett testified that, relative to conditions associated with the rest of the coast, the area where lease no. 536 is located "certainly would be a low erosion area." (Tp 173).

20. Mr. Priddy surveyed and platted the following lease construction as illustrated in R14:

A. The legal descriptions of lease nos. 535 and 536 show that the western boundary of former lease no. 535 adjoins the eastern boundary of petitioner's lease no. 536. (R14 and 16).

B. The eastern boundary of former lease number 535 adjoins the western boundary of former lease no. 558.

C. One of the two "tie in" points, located in former lease no. 615, lies approximately 40 yards to the southeast of the southeast corner of former lease no. 558, matching the legal description of lease no. 615: "...said stake lying approximately 40 yards in a southeasterly direction from the southeast corner of the W.G. Edens lease...." (R18).

Respondent's survey (R14) illustrates, when tied in to the natural boundary markers of lease no. 615, the legal boundaries of lease no. 536.

## CONCLUSIONS OF LAW

21. All parties are properly before the Office of Administrative Hearings, and the Office has jurisdiction over the parties and the subject matter.
22. All parties have been correctly designated, and there is no question as to misjoinder or nonjoinder.
23. N.C.G.S. 1-45.1 provides that lands submerged by navigable waters are subject to "public trust rights" and are held in trust by the State for the use and benefit of the people of the State of North Carolina in common. They are established by common law as interpreted by the courts of this State. They include the right to ... fish ... and the right to freely use and enjoy....
24. N.C.G.S. § 113-202(a) provides that, in order to increase the use of suitable underlying coastal fishing waters for the production of shellfish, the Secretary of the Department of Environment, Health and Natural Resources may grant limited rights to shellfish cultivation leases on public trust submerged lands. Suitable areas for shellfish leases must meet, among other standards, the following minimum standard:  
(a)(2) The area lease must not contain a natural shellfish bed.
25. Where the rights of exclusive shellfish harvest pursuant to a lease ends, the public's right to harvest shellfish begins.
26. Title to real property held by the State and subject to public trust rights may not be acquired by adverse possession. N.C.G.S. 1-45.1. The doctrine of adverse possession does not apply to leases. *See, e.g., State ex rel Rohrer v. Credle*, 322 N.C. 522, 534, 369 SE2d 825 (1988); *Mizell v. Ewell*, 27 N.C. App. 507, 219 S.E.2d 513 (1975); *Webster's Real Estate Law in North Carolina*, Third Edition, 234.
27. A lease must include a definite description of the property leased. *Advertising, Inc. v. Harper*, 7 N.C. App. 504 (1970). A latent ambiguity occurs when the words of the legal instrument are plain and intelligible, but extrinsic facts are necessary to identify the person or thing mentioned therein. *Redd v. Taylor*, 270 N.C. 14, 22. If extrinsic evidence does not sufficiently identify lease boundaries, then the lease is void because of vagueness. *See, e.g., id.* at 24.
28. Petitioner has the duty to accurately survey and mark his lease. 15A NCAC 30 .0204. 15A NCAC 30 .0204(a)(1)(A) requires in pertinent part that "stakes be firmly driven into the bottom of each corner (of the lease)." Petitioner carries the burden of proof to show that his lease as posted in the water comports with the legal description contained within the lease.
29. Petitioner submitted a plat of lease no. 536 as marked in the waters of the State. Petitioner does not purport to submit a survey showing the boundaries of the lease derived from its legal description. Petitioner's surveyor testified that the legal description of lease no. 536 could not be surveyed and marked on the water because of the vagueness of the description.  
  
If petitioner's survey were the only evidence before this court to prove the legal boundaries of lease no. 536, this court would be required to void petitioner's lease. Petitioner's lease contains latent ambiguities regarding its boundary description and petitioner's extrinsic evidence does not clarify those ambiguities.
30. Respondent offers the only evidence which purports to plot the legal boundaries of lease no. 536.
31. Respondent performs "lease chain reconstruction," an analysis in accordance with the professional standards of registered land surveyors, in order to determine the legal boundaries of lease no. 536. Through "lease chain reconstruction," respondent presents extrinsic evidence which sufficiently identifies the legal boundaries of lease no. 536.

Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following:

#### RECOMMENDED DECISION

The Secretary of the Department of Environment, Health and Natural Resources should uphold respondent's NOTICE OF INTENT TO TERMINATE SHELLFISH LEASE NO. 536. If petitioner fails to meet the directives contained within the NOTICE (R13) within 30 days of the issuance of the final decision in this matter, then petitioner's

lease should be terminated and petitioner should be sent a NOTICE OF FINAL TERMINATION in accordance with N.C.G.S. § 113-202(m).

**ORDER**

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

**NOTICE**

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. N.C.G.S. 150B-36(a).

The agency is required by N.C.G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings. The agency that will make the final decision in this contested case is the Secretary of the Department of Environment, Health and Natural Resources.

This the 29th day of March, 1996.

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Sammie Chess, Jr.  
Administrative Law Judge

**STATE OF NORTH CAROLINA**

**IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
94 OSP 1044**

**COUNTY OF WAKE**

**DOROTHY J. GRAYS,** )  
**Petitioner,** )  
 )  
**v.** )  
 )  
**DIVISION OF MOTOR VEHICLES,** )  
**N.C. DEPARTMENT OF TRANSPORTATION** )  
**Respondent.** )

**RECOMMENDED DECISION**

THIS MATTER was heard before Robert R. Reilly, Jr., Administrative Law Judge, on December 11, 12, 18, 1995 and January 24, February 22 and 23, 1996. The case was originally scheduled for hearing on February 27, 1995. Respondent's Motion to Continue was allowed and the case was rescheduled for August 23-25, 1995. On August 14, 1995 Respondent again moved to continue citing witness problems. The motion was granted and the hearing rescheduled for December, 1995.

**BACKGROUND**

The Petitioner initiated this contested case on September 30, 1994 in order to appeal the Respondent Agency's June 7, 1994 decision to dismiss her for unacceptable personal conduct. Respondent claimed that Petitioner, as a title examiner, knowingly accepted altered title documents and exhibited a pattern and practice of accepting altered title documents between January 2, 1992 and March 4, 1994. Petitioner denied all charges.

**ISSUES**

1. Whether Respondent had "just cause" to suspend and subsequently dismiss Petitioner for unacceptable personal conduct within the meaning of N.C. Gen. Stat. 126-35?
2. Whether Respondent violated State Personnel policy and regulations governing predissmissal conferences (25 NCAC .01J .0600) when it failed to show Petitioner any of the 237 documents (alleged to have been altered) during the predissmissal conference or at any other time prior to her dismissal?

**APPLICABLE STATUTES AND RULES**

N.C. Gen. Statute 126-35, State Personnel Commission Rule 25 NCAC .01J .0600 et seq. and Office of State Personnel Manual, Section 9, pages 2-8 (Disciplinary Action, Suspension and Dismissal, Eff. July 1, 1993)

**APPEARANCES**

For Petitioner: Thomas Hilliard, III  
 HILLIARD & JONES  
 Attorneys at Law  
 P.O. Box 25305  
 Raleigh, N.C. 27611-5305

For Respondent: C. Norman Young  
 Associate Attorney General  
 N.C. Department of Justice  
 P.O. Box 629  
 Raleigh, N.C. 27602

**WITNESSES**



Petitioner presented the following witnesses: Phil Henry, Brenda Crump, Kay Toole, and Dorothy J. Grays.

Respondent presented the following witnesses: Wesley Denton, Carol Howard, James Grays, Kay Toole, Phil Henry, Dorothy J. Grays, and Brenda Crump.

### EXHIBITS

I. Petitioner's exhibits which were admitted into the record included the following:

- P-1 Petitioner's Performance Appraisal Rating dated 3-28-94
  - P-2 Petitioner's Performance Appraisal Rating dated 4-1-93
  - P-3 Petitioner's Performance Appraisal Rating dated 3-26-92
  - P-4 Petitioner's Performance Appraisal Rating dated 3-25-91
  - P-5 Petitioner's Performance Appraisal Rating dated 2-20-90
  - P-6 Petitioner's Critical Tasks and Performance Expectations dated 6-21-90
  - P-7 Petitioner's Critical Tasks and Performance Expectations dated 10-31-89
  - P-8 State Personnel Manual Excerpt re: Disciplinary Action, Suspension and Dismissal, Section 9, Pages 3-6, Effective July 1, 1993
  - P-9 February 7, 1994 letter to Petitioner from Phil Henry re Title Examining Supervisor position
  - P-10 May 12, 1994 letter to Petitioner for Phil Henry re Suspension without pay
  - P-11 June 6, 1994 letter hand-delivered to Petitioner same day by Phil Henry at meeting in DMV offices
  - P-12 June 7, 1994 letter to Petitioner from Phil Henry re Dismissal from employment
  - P-13 August 30, 1993 title document with errors processed by Barbara Daughtry
  - P-14 January 13, 1992 title document with errors processed by Barbara Sorrell
  - P-15 January 13, 1992 title document with errors processed by Jean Barber
  - P-17 NCDMV Title Documents Processed by Petitioner October-December, 1991, April, 1990, and December, 1989 (220 documents listed)
  - P-17-A October 3, 1991 title document (VIN# KNJPT05H1L6145082)
  - P-17-B October 9, 1991 title document (VIN# 1G2BL3518GX237616)
  - P-17-C October 18, 1991 title document (VIN# 1GHCW69B8G1460719)
  - P-17-D October 22, 1991 title document (VIN# 1HGCB7669LA043070)
  - P-17-E November 5, 1991 title document (VIN# 1FABP26A1FF114035)
  - P-17-F November 8, 1991 title document (VIN# JHMAF523FS00676B)
  - P-17-G November 18, 1991 title document (VIN# 1G3NF54U7HM269826)
  - P-17-H November 22, 1991 title document (VIN# 1HGAD7433EA061481)
  - P-17-I November 27, 1991 title document (VIN# 1JCCJ15N8DT012176)
  - P-17-J December 4, 1991 title document (VIN# JHMAK5437GSO14927)
  - P-17-K December 9, 1991 title document (VIN# JT2AE95COJ3159171)
  - P-17-L December 11, 1991 title document (VIN# 1FMCA1160JZA86081)
  - P-17-M December 12, 1991 title document (VIN# JN1HU115XHT203794)
  - P-17-N December 16, 1991 title document (VIN# 1HGCA562XJA126363)
  - P-17-O December 16, 1991 title document (VIN# 2G3AJ54N9L2357684)
  - P-17-P December 31, 1991 title document (VIN# 1G1AN35N3J1018941)
  - P-17-Q December 5, 1989 title document (VIN# 1G1FP87H5GL109863)
  - P-17-R December 6, 1989 title document (VIN# 1Y1SK5469LZ106389)
  - P-17-S December 7, 1989 title document (VIN# 1GDHC34W4GJ502018)
  - P-17-T December 20, 1989 title document (VIN# 1G8DM15N7FB117744)
  - P-17-V April 20, 1990 title document (VIN# 1FTBR10AXH6A74429)
  - P-18 Office notes of Carol Howard, then-Assistant Director, Vehicle Registration Section
  - P-19 Tape recording of June 6, 1994 predismissal conference involving Phil Henry, Carol Howard and Petitioner
- Other title documents processed by Petitioner 1989-1991 (197 documents).

II. Respondent's exhibits which were admitted into the record included the following:

- R1-238 Title documents processed by the Petitioner
- R-239 Letter to Petitioner from Phil Henry, dated June 6, 1994
- R-240 Letter to Petitioner from Phil Henry, dated June 7, 1994

R-243 List of titles prepared under the supervision of Inspector Wesley Denton

Based upon sworn testimony of witnesses and documents admitted into evidence, the undersigned makes the following:

**FINDINGS OF FACT**

1. Petitioner was employed by the N.C. Department of Transportation in the Division of Motor Vehicles from January, 1971 through June 7, 1994. Her initial position classification was that of Clerk 1.
2. On October 1, 1989 petitioner was promoted to a title examiner V position (SG 61) in the Vehicle Registration Section and assigned to the dealer unit of the Raleigh Window. Her duties included, inter alia, processing 60-70 title documents daily with three (3) supervisor complaints per week (P. Exh.7 & 18).
3. Petitioner's work performance evaluation completed on October 31, 1989 showed that she processed 32 title documents daily with 28 supervisor complaints during the thirty (30) day evaluation period. Her performance rating was evaluated at level one (1), the lowest and worst assignable (P. Exh. 7).
4. In November, 1989 petitioner made processing errors by failing to collect fees; she was counseled by her supervisors (P. Exh. 18).
5. On June 21, 1990 respondent issued a performance appraisal to the petitioner for preceding four (4) month period beginning February 21, 1990 (P. Exh. 6).
6. For the appraisal period mentioned above, petitioner was expected to process 54-64 title documents or rejections daily with 9-10 supervisor complaints every nine (9) months. Her actual performance showed 53 title documents processed per day with 20 supervisor complaints. Respondent assigned petitioner a performance rating level of 1.5 or poor (P. Exh. 6).
7. During the appraisal period November 1, 1989 through February 20, 1990, respondent stopped counting petitioner's errors for one month at the petitioner's request and provided training. Her performance was rated below average (P. Exh. 5).
8. On March 25, 1991 respondent issued a performance appraisal to petitioner that showed that she processed 55 title documents daily with 22 major errors during the grading cycle. Her performance was rated at level G or good (P. Exh. 4).
9. On March 22, 1992 respondent issued a performance appraisal to petitioner citing her need to control title errors and increase production. She showed average performance in completing the title work according to the narrative appraisal summary (P. Exh. 3).
10. For the period March 21, 1992 March 31, 1993, respondent issued a performance appraisal to petitioner, a title examiner V, showing her title errors doubled after the October, 1992 work plan was implemented (P. Exh. 2 & 18).
11. For the appraisal period mentioned above, petitioner processed 58 title documents daily with thirty-five (35) title and license errors. The error factor was far below satisfactory according to her supervisors (P. Exh. 2 & 18).
12. On October 21, 1993, respondent issued an interim appraisal to petitioner citing her for committing eleven (11) title errors while processing title documents and for showing no performance stability. Petitioner processed fifty-two (52) title documents daily (P. Exh. 1).
13. On May 12, 1994 respondent suspended petitioner without pay pending an investigation into allegations that she knowingly accepted 237 altered or modified title document between January 2, 1992 and March 4, 1994 (P. Exh. 10).
14. For three (3) months prior to the May 12, 1994 suspension, respondent secretly monitored petitioner's title processing work at the Raleigh window. Respondent became aware of the altered title document allegations against

petitioner in January, 1994.

15. As a result of monitoring petitioner's work, respondent found two (2) title documents which appeared to contain alteration of some type. Respondent did not confront petitioner nor attempt to determine whether she knowingly processed the two title documents.

16. Upon suspending petitioner on May 12, 1994, respondent did not allow, nor offer to allow, petitioner to review or examine any of the 237 altered or modified title documents she was accused of knowingly accepting and processing. In her twenty-three (23) career with respondent, petitioner had never received a disciplinary action prior to her suspension.

17. As a title examiner, petitioner processed approximately 250 title documents per week and 1,000 per month based upon her performance appraisals' "actual results and comments" from March 21, 1992 through March 31, 1994 (P. Exhs. 1 & 2).

18. Between January 2, 1992 and March 4, 1994 petitioner processes about 27,000 title documents at the Raleigh window. Respondent appraised her work on three (3) occasions during that period. At no time did respondent raise any allegation that petitioner knowingly accepted altered or modified documents (P. Exhs. 1, 2 & 3).

19. On the afternoon of June 5, 1994 petitioner received a telephone call at home from respondent informing her of a predissmissal conference. The meeting was scheduled for June 6, 1994 at 9:00 A.M. in the office of Phil Henry, Director of Vehicle Registration.

20. Petitioner attended the predissmissal conference and denied that she knowingly accepted altered or modified title documents at any time while working as a title examiner.

21. At the conference respondent provided petitioner with a letter which referenced the altered title allegations. Attached to the letter was an eight (8) page list of titles by date processed, vehicle id number and processing error (P. Exh. 11).

22. At no time during the predissmissal conference did respondent allow, or offer to allow, petitioner to review or examine any of the 237 title documents listed in the June 6, 1994 letter (P. Exh. 19, Tape recording of conference).

23. In late June, 1994 following her dismissal, respondent allowed petitioner to review and examine the 237 title documents in question. Due to the volume of documents, petitioner continued her examination of same into July, 1994.

24. During her review of the title documents at the time mentioned above, petitioner identified three (3) documents which were processed by title examiners other than herself (P. Exhs. 13, 14 & 15).

25. For the period January 2, 1992 through March 4, 1994, Respondent found some twenty-two (22) altered or modified title documents which were processed by title examiners other than petitioner. None of those examiners were dismissed from employment.

26. By letter dated June 7, 1994 respondent terminated petitioner's employment based upon the allegations 1) that she knowingly accepted altered title documents with application for N.C. certificate of title and 2) that she exhibited a pattern and practice of accepting altered documents causing titles to be improperly issued on 237 vehicles between January 2, 1992 and March 4, 1994 (P. Exh. 12).

27. At hearing, altered or modified title documents were described exhaustively as any documents accompanying an application for N.C. certificate of title which contained erasures, white-outs, write-overs, strike-throughs, darkened numbers for mileage, dates, etc., questionable mileage figures between title transfers, inconsistent mileage figures on application documents, incomplete documentation, questionable dates of title transfer, absent dealer numbers, questionable dealer numbers or identification, missing brands, missing odometer disclosure statements, paper creases obliterating numbers or letters on documents, fictitious title documents, holes in documents, missing manufacturer's certificate of origin (MCO), mileage missing on MCO, non-conforming title documents, non-certified odometer statements, unsigned or un-notarized affidavits, etc. (P. Exhs. 11 & 17).

28. Some documents (218) processed by petitioner at the Raleigh window between October, 1989 and January 1,



1992 met the above definition of altered or modified title documents (P.Exhs. 17, 17A-17V). This occurred before January 2, 1992, the date respondent alleged that petitioner began knowingly accepting altered or modified title documents (P. Exhs. 17, 17A-17V).

29. Petitioner's method of processing title documents accompanying applications for N.C. certificate of title was the same before and after January 2, 1992. Processing errors made before that date were also made in 1992, 1993 & 1994.

30. Consequently, petitioner unknowingly accepted some altered or modified title documents when she began working at the Raleigh window in October, 1989. Petitioner continued to do so unbeknownst to her until her suspension on May 12, 1994. None of respondent's performance appraisals cited this as a concern with petitioner's work (P.Exhs. 1,2,3,4,5,6,7 and 18).

31. The evaluations of petitioner's job performance by respondent between October, 1989 and March 4, 1994 consistently showed petitioner to be a title examiner who regularly made title errors. However, respondent's appraisals and reviews failed to identify any intent or purpose by petitioner to accept altered or modified documents (P.Exhs. 1,2,3,4,5,6,7 and 18).

32. Petitioner did not knowingly accept altered or modified title documents between January 2, 1992 and March 4, 1994.

33. Any job performance patterns or practices followed by petitioner as a title examiner at the Raleigh window began with her initial employment there in October, 1989. By January 2, 1992 or two (2) years later, petitioner's title processing performance, albeit it less than satisfactory, was well established and a matter of record in her performance appraisal reviews (P.Exhs. 1,2,3,4,5,6,7 and 18).

34. On no occasion did Petitioner's immediate supervisor observe any altered or modified title documents while reviewing or evaluating her title work during performance review appraisals.

Based upon the foregoing Findings of Fact, the undersigned makes the following:

### CONCLUSIONS OF LAW

1. Petitioner was a permanent State employee within the meaning of that term as defined in North Carolina General Statute Section 126-39, at the time of her dismissal in June 7, 1994. The Office of Administrative Hearings has jurisdiction to hear Petitioner's appeal where she has alleged that Respondent lacked just cause to terminate her employment without warning and where she has alleged that Respondent committed procedural violations while implementing the dismissal. North Carolina General Statutes Section 126-35.

2. North Carolina General Statutes Section 126-35(a) provides, in part, that "[N]o permanent employee subject to the State Personnel Act shall be discharged...for disciplinary reasons, except for just cause." Where just cause is an issue, the Respondent bears the ultimate burden of persuasion. A just cause issue involves both procedural and substantive questions. Causes for dismissal fall into two categories: (1) Causes relating to performance of job duties and, (2) causes relating to personal conduct - no prior warnings are required under (2).

3. The Petitioner was not discharged for just cause.

4. According to the State personnel policy governing disciplinary actions taken on or before June 7, 1994, a predismissal conference was to be held following advance notice to the employee. "[I]n the conference, the supervisor shall give the employee oral or written notice of the recommendation...The employee shall have an opportunity to respond to the proposed dismissal, to refute information supporting the recommended dismissal action and to offer information or arguments to support his position. Every effort shall be made by the supervisor or the designated management representative to assure that the employee has had a full opportunity to set forth any information in his possession in opposition to his dismissal prior to the end of conference."

Respondent violated this policy during the predismissal conference when it failed to allow, or offer to allow, petitioner to review or examine any of the 237 altered or modified documents she was alleged to have knowingly



accepted and processed between January 2, 1992 and March 4, 1994. At the conference petitioner could not remember processing any of the 237 documents (identified to her only by date, vehicle identification number and processing error) listed by respondent; therefore she was not afforded any opportunity to refute information supporting the recommended dismissal action or to offer information or arguments to support her position beyond a general denial of wrongdoing. In addition, the only notice of conference issued by respondent was a telephone call to petitioner's home on the day prior to the predismissal conference with a message regarding the time and place of the meeting. Consequently, respondent violated both the letter and the spirit of the personnel policy governing the conduct of predismissal conferences.

5. Respondent's actions, or lack thereof, upon learning of the altered title document allegations in January, 1994 were inconsistent with its claim that Petitioner's conduct was unacceptable. For the five (5) month period, January through May 11, 1994, Respondent never raised the issue of unacceptable personal conduct with petitioner; its secret monitoring of the title documents processed by the petitioner February through May, 1994 produced only two alleged altered or modified documents; in addition, during that period, on March 28, 1994, respondent issued a performance appraisal review to petitioner 1) containing no reference whatsoever to any unacceptable personal conduct allegations then under investigation and 2) rating her job performance as "very good."

6. No evidence showed that petitioner knowingly accepted altered or modified title documents between January 2, 1992 and March 4, 1994; evidence revealed that petitioner processed title documents at the Raleigh window in the same manner from October, 1989 through May 12, 1994, the date of her suspension.

7. Respondent has not proven by a preponderance of the evidence that the petitioner knowingly accepted altered or modified title documents between January 2, 1992 and May 4, 1994 or that petitioner exhibited a pattern and practice of engaging in such conduct knowingly.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Administrative Law Judge Presiding make the following:

### RECOMMENDED DECISION

That the State Personnel Commission order the petitioner reinstated to her former position of the title examiner V effective May 12, 1994, with back pay, front pay, where applicable, attorney fees and all the benefits of continued permanent employment with the State as of that date. That the Commission further order that respondent expunge from petitioner's personnel file all documents related to this dismissal.

### ADDENDUM

The parties engaged in discovery for several months in preparation for hearing. Respondent was allowed two continuances based upon the unavailability of its witness(es) who resided in the Maryland-Washington, D.C. area. No de bene esse trial depositions were taken by respondent.

At hearing, respondent's witnesses failed to appear and had not been commanded to appear. Respondent made motions 1) to offer the testimony of Ali Soltanifa, who was convicted on December 11, 1995 of felony fraud charges in the United States Middle District Court of North Carolina 2) to offer triple hearsay testimony through Wesley Denton, an employee of Respondent and 3) to offer into evidence certain telephone records and numbers from an unavailable witness and petitioner. Based upon North Carolina Rules of Evidence 803 and 804 and in the interests of justice, the motions were denied. Respondent's written offer of proof on these items was made part of the record.

### ORDER

It is hereby ordered that the agency serve a copy of the final decision of the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

### NOTICE

The agency making the final decision in this contested case is required to give such party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150-36(a).

The agency is required by G.S. 150-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the State Personnel Commission.

This the 12th day of April, 1996.

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Robert Roosevelt Reilly, Jr.  
Administrative Law Judge Presiding

*The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.*

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

<b>TITLE</b>	<b>DEPARTMENT</b>	<b>LICENSING BOARDS</b>	<b>CHAPTER</b>
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16		Landscape Architects	26
17		Landscape Contractors	28
18	Public Education	Marital and Family Therapy	31
19A	Revenue	Medical Examiners	32
20	Secretary of State	Midwifery Joint Committee	33
21	Transportation	Mortuary Science	34
*21	Treasurer	Nursing	36
22	Occupational Licensing Boards	Nursing Home Administrators	37
23	Administrative Procedures	Occupational Therapists	38
24	Community Colleges	Opticians	40
25	Independent Agencies	Optometry	42
26	State Personnel	Osteopathic Examination & Reg. (Repealed)	44
27	Administrative Hearings	Pastoral Counselors, Fee-Based Practicing	45
	NC State Bar	Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Practicing Psychologists	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

**Note:** Title 21 contains the chapters of the various occupational licensing boards.

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

\* Fiscal Note = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

## ACUPUNCTURE LICENSING BOARD

21 NCAC 01 .0301		10:22 NCR 2860								
21 NCAC 01 .0705	10:17 NCR 2228		10:22 NCR 2834	*						
21 NCAC 01 .0709	10:17 NCR 2228		10:22 NCR 2834	*						

## ADMINISTRATIVE HEARINGS

26 NCAC 03	11:03 NCR 110
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## AGRICULTURE

2 NCAC 09C .0700	10:24 NCR 3056
2 NCAC 48A .0200	10:24 NCR 3056
2 NCAC 48A .1100	10:24 NCR 3056
2 NCAC 48B	10:24 NCR 3056
2 NCAC 52B .0200	10:24 NCR 3056

## COMMERCE

### Credit Union Division

4 NCAC 06C .0205	10:18 NCR 2398
4 NCAC 06C .0407	10:18 NCR 2398
4 NCAC 06C .0409	10:18 NCR 2398

### State Ports Authority

4 NCAC 13	10:24 NCR 3056
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## COMMUNITY COLLEGES

23 NCAC 02D .0325	10:24 NCR 3058
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# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

23 NCAC 02E .0203 10:24 NCR 3058  
 23 NCAC 03A .0113 10:24 NCR 3058

## CULTURAL RESOURCES

USS North Carolina Battleship Commission  
 7 NCAC 05 .0200 10:18 NCR 2398

## ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A Public Notice

15A NCAC 01K 10:19 NCR 2506

### Environmental Management Commission

15A NCAC 02 10:24 NCR 3045  
 15A NCAC 02B .0223 11:02 NCR 75  
 15A NCAC 02B .0223 11:03 NCR 109  
 15A NCAC 02B .0224 10:18 NCR 2400  
 15A NCAC 02B .0227 10:18 NCR 2400  
 15A NCAC 02B .0229 11:03 NCR 109  
 15A NCAC 02B .0303 10:18 NCR 2400  
 15A NCAC 02B .0315 11:02 NCR 75  
 15A NCAC 02L .0106 10:19 NCR 2508  
 15A NCAC 02L .0202 10:20 NCR 2591  
 15A NCAC 02P .0402 10:19 NCR 2512

### Health Services, Commission for

15A NCAC 18A .2601 11:01 NCR 24

### Marine Fisheries Commission

15A NCAC 03I .0019 10:21 NCR 2737  
 15A NCAC 03J .0401 10:21 NCR 2688  
 15A NCAC 03M .0202 11:03 NCR 110

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
15A NCAC 03M .0504	11:03 NCR 110									
15A NCAC 03M .0511	11:03 NCR 110									
<b>Wildlife Resources Commission</b>										
15A NCAC 10B .0106	11:02 NCR 76									
15A NCAC 10B .0123	11:02 NCR 76									
15A NCAC 10B .0203	11:02 NCR 76									
15A NCAC 10B .0208	11:02 NCR 76									
15A NCAC 10B .0209	11:02 NCR 76									
15A NCAC 10C .0107	11:02 NCR 76									
15A NCAC 10C .0205	11:02 NCR 76									
15A NCAC 10C .0305	11:02 NCR 76									
15A NCAC 10C .0401	11:02 NCR 76									
15A NCAC 10D .0002	11:02 NCR 76									
15A NCAC 10D .0003	11:02 NCR 76									
15A NCAC 10F .0100	10:19 NCR 2506									
15A NCAC 10F .0102	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0103	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0104	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0105	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0106	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0107	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0109	10:19 NCR 2506		11:01 NCR 14	*						
15A NCAC 10F .0300	11:01 NCR 13		11:01 NCR 14	*						
15A NCAC 10F .0305	11:01 NCR 13		11:01 NCR 14	*						
15A NCAC 10F .0307	11:02 NCR 76		11:01 NCR 14	*						
15A NCAC 10F .0310	11:02 NCR 76		11:01 NCR 14	*						
15A NCAC 10F .0342	11:02 NCR 76		11:01 NCR 14	*						
15A NCAC 10F .0348	11:02 NCR 76		11:01 NCR 14	*						

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

15A NCAC 10G 11:01 NCR 13

15A NCAC 10G .0100 11:02 NCR 76

15A NCAC 101 .0002 11:02 NCR 76

Wildlife Proclamation

11:03 NCR 104

## FINAL DECISION LETTERS

Voting Rights Act

11:01 NCR 1

## GENERAL CONTRACTORS LICENSING BOARD

21 NCAC 12 10:22 NCR 2829

## HUMAN RESOURCES

Aging

10 NCAC 22 10:23 NCR 2956

Child Day Care Commission

10 NCAC 03U .0102 10:20 NCR 2593

10 NCAC 03U .0604 11:03 NCR 109

10 NCAC 03U .0704 10:19 NCR 2506

10 NCAC 03U .0710 10:22 NCR 2829

10 NCAC 03U .2701 10:20 NCR 2593

10 NCAC 03U .2702 10:20 NCR 2593

10 NCAC 03U .2703 10:20 NCR 2593

10 NCAC 03U .2704 10:20 NCR 2593

Facility Services

10 NCAC 03 10:18 NCR 2399

10 NCAC 03R .3000 10:23 NCR 2956

10 NCAC 03R .3001 10:21 NCR 2699

10 NCAC 03R .3010 10:21 NCR 2699

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 03R .3020		10:21 NCR 2699								
10 NCAC 03R .3030		10:21 NCR 2699								
10 NCAC 03R .3032		10:21 NCR 2699								
10 NCAC 03R .3040		10:21 NCR 2699								
10 NCAC 03R .3050		10:21 NCR 2699								
<b>Medical Assistance</b>										
Disproportionate Share List										
10 NCAC 26B .0105	10:18 NCR 2398		10:22 NCR 2831	*						11:03 NCR 101
10 NCAC 26H .0506		11:02 NCR 77								
10 NCAC 26H .0506	10:21 NCR 2686									
10 NCAC 50D .0101	10:24 NCR 3057									
10 NCAC 50D .0102	10:24 NCR 3057									
10 NCAC 50D .0103	10:24 NCR 3057									
10 NCAC 50D .0201	10:24 NCR 3057									
10 NCAC 50D .0301	10:24 NCR 3057									
10 NCAC 50D .0302	10:24 NCR 3057									
10 NCAC 50D .0401	10:24 NCR 3057									
10 NCAC 50D .0402	10:24 NCR 3057									
10 NCAC 50D .0501	10:24 NCR 3057									
10 NCAC 50D .0502	10:24 NCR 3057									
10 NCAC 50D .0503	10:24 NCR 3057									
<b>Social Services Commission</b>										
10 NCAC 41F	10:23 NCR 2956									
10 NCAC 41F .0705	10:23 NCR 2956		11:03 NCR 111	Local						
10 NCAC 41F .0706		10:21 NCR 2726	11:03 NCR 111	*						
10 NCAC 41F .0707		10:21 NCR 2726	11:03 NCR 111	State						
10 NCAC 41F .0812		10:21 NCR 2726	11:03 NCR 111	*						
10 NCAC 41F .0813		10:21 NCR 2726	11:03 NCR 111	State						



# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 41F .0814	10:23 NCR 2956		11:03 NCR 111	Local						
10 NCAC 41I .0100	10:17 NCR 2228									
10 NCAC 41I .0102	10:17 NCR 2228		10:21 NCR 2687	*						
10 NCAC 42A .0701		10:21 NCR 2728								
10 NCAC 42A .0702		10:21 NCR 2728								
10 NCAC 42A .0703		10:21 NCR 2728								
10 NCAC 42B .1209		10:21 NCR 2729								
10 NCAC 42B .1210		10:21 NCR 2729								
10 NCAC 42B .1211		10:21 NCR 2729								
10 NCAC 42B .2402		10:21 NCR 2729								
10 NCAC 42B .2403		10:21 NCR 2729								
10 NCAC 42B .2404		10:21 NCR 2729								
10 NCAC 42B .2405		10:21 NCR 2729								
10 NCAC 42C .2010		10:21 NCR 2729								
10 NCAC 42C .2011		10:21 NCR 2729								
10 NCAC 42C .2012		10:21 NCR 2729								
10 NCAC 42C .3701		10:21 NCR 2729								
10 NCAC 42C .3702		10:21 NCR 2729								
10 NCAC 42C .3703		10:21 NCR 2729								
10 NCAC 42C .3704		10:21 NCR 2729								
10 NCAC 42D .1409		10:21 NCR 2729								
10 NCAC 42D .1410		10:21 NCR 2729								
10 NCAC 42D .1411		10:21 NCR 2729								
10 NCAC 42D .1827		10:21 NCR 2729								
10 NCAC 42D .1828		10:21 NCR 2729								
10 NCAC 42D .1829		10:21 NCR 2729								
10 NCAC 42D .1830		10:21 NCR 2729								
10 NCAC 42V .0201		10:20 NCR 2597	11:03 NCR 111	*						

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
10 NCAC 42V .0802		10:20 NCR 2597	11:03 NCR 111	*						
10 NCAC 42V .0803		10:20 NCR 2597	11:03 NCR 111	*						
<b>INSURANCE</b>										
11 NCAC 12 .0551	10:18 NCR 2399		10:22 NCR 2831	*						
11 NCAC 16 .0703	10:18 NCR 2399		10:22 NCR 2832	*						
<b>JUSTICE</b>										
<b>Alarm Systems Licensing Board</b>										
12 NCAC 11 .0202	10:24 NCR 3057									
<b>LABOR</b>										
<b>Occupational Safety and Health</b>										
13 NCAC 07F	11:03 NCAC 106									
13 NCAC 07F .0101		11:03 NCR 119								
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0301	11:03 NCR 106									
<b>MEDICAL BOARD</b>										
21 NCAC 32H	10:18 NCR 2400									
21 NCAC 32H .0101	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0102	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0201	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0203	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0301	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0302	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0303	10:18 NCR 2400		10:22 NCR 2835	*						

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RPC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 32H .0401	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0402	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0403	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0404	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0406	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0407	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0408	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0409	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0501	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0502	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0504	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0505	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0506	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0507	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0601	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0602	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0701	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0702	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0801	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0901	10:18 NCR 2400		10:22 NCR 2835	*						
21 NCAC 32H .0902	10:18 NCR 2400		10:22 NCR 2835	*						

## PUBLIC EDUCATION

Standards Board for Public School Administration

16 NCAC 07 10:23 NCR 2957

## REAL ESTATE COMMISSION

21 NCAC 58A .0101 10:22 NCR 2829

11:03 NCR 114

\*

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 58A .0105	10:22 NCR 2829		11:03 NCR 1114	*						
21 NCAC 58A .0109	10:22 NCR 2829		11:03 NCR 1114	*						
21 NCAC 58A .0110	10:22 NCR 2829		11:03 NCR 1114	*						
21 NCAC 58A .0302	10:22 NCR 2829		11:03 NCR 1114	*						
21 NCAC 58A .0503	10:22 NCR 2829		11:03 NCR 1114	*						
21 NCAC 58A .0504	10:22 NCR 2829		11:03 NCR 1114	*						
21 NCAC 58A .1501	10:22 NCR 2829		11:03 NCR 1114	*						
21 NCAC 58A .1502	10:22 NCR 2829		11:03 NCR 1114	*						
21 NCAC 58A .1601	10:22 NCR 2835		11:03 NCR 1114	*						
<b>REVENUE</b>										
17 NCAC 01C .0504		10:20 NCR 2599								
17 NCAC 01C .0506		10:20 NCR 2599								
17 NCAC 05C .0102			11:03 NCR 1113	*						
17 NCAC 05C .2101			10:24 NCR 3059	*						
17 NCAC 06B .0612			10:22 NCR 2833	*						
17 NCAC 06B .3716			10:22 NCR 2833	*						
17 NCAC 07B .1101			10:21 NCR 2688	*						
17 NCAC 07B .1105			10:21 NCR 2688	*						
17 NCAC 07B .1108			10:21 NCR 2688	*						
17 NCAC 07B .1109			10:21 NCR 2688	*						
17 NCAC 07B .1110			10:21 NCR 2688	*						
17 NCAC 07B .1112			10:21 NCR 2688	*						
17 NCAC 07B .1114			10:21 NCR 2688	*						
17 NCAC 07B .1123			10:21 NCR 2688	*						
17 NCAC 07B .1602			10:21 NCR 2688	*						
17 NCAC 07B .1701			10:21 NCR 2688	*						
17 NCAC 07B .1702			10:21 NCR 2688	*						



# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
17 NCAC 07B .1802			10:21 NCR 2688	*						
17 NCAC 07B .2401			10:21 NCR 2688	*						
17 NCAC 07B .2601			10:21 NCR 2688	*						
17 NCAC 07B .4002			10:21 NCR 2688	*						
17 NCAC 07B .4004			10:21 NCR 2688	*						
17 NCAC 07B .4008			10:21 NCR 2688	*						
17 NCAC 07B .4301			10:21 NCR 2688	*						
17 NCAC 07B .4408			10:21 NCR 2688	*						
17 NCAC 07B .4902			10:21 NCR 2688	*						
Tax Review Board										
11:02 NCR 72										
<b>SOCIAL WORK, BOARD OF</b>										
21 NCAC 63 .0306		10:21 NCR 2739	11:03 NCR 118	*						
<b>SOIL SCIENTISTS, BOARD FOR LICENSING</b>										
21 NCAC 69	10:19 NCR 2507									
<b>STATE PERSONNEL COMMISSION</b>										
25 NCAC 01J .0613		10:23 NCR 2960								
25 NCAC 01J .0613					Approve	03/21/96			11:01 NCR 26	
<b>SUBSTANCE ABUSE PROFESSIONALS CERTIFICATION BOARD</b>										
21 NCAC 68	10:18 NCR 2401									
21 NCAC 68 .0101	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0102	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0201	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0202	10:18 NCR 2401		10:22 NCR 2850	*						

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 68 .0203	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0204	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0205	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0206	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0207	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0208	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0209	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0210	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0211	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0212	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0213	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0401	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0402	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0403	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0404	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0405	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0406	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0407	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0701	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0702	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0703	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0704	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0705	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0706	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0707	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0708	10:18 NCR 2401		10:22 NCR 2850	*						
21 NCAC 68 .0709	10:18 NCR 2401		10:22 NCR 2850	*						

# CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

## TRANSPORTATION

19A NCAC 06B .0401	10:23 NCR 2957									
19A NCAC 06B .0402	10:23 NCR 2957									
19A NCAC 06B .0403	10:23 NCR 2957									
19A NCAC 06B .0404	10:23 NCR 2957									
19A NCAC 06B .0405	10:23 NCR 2957									
19A NCAC 06B .0406	10:23 NCR 2957									
19A NCAC 06B .0407	10:23 NCR 2957									
19A NCAC 06B .0408	10:23 NCR 2957									
19A NCAC 06B .0409	10:23 NCR 2957									
19A NCAC 06B .0410	10:23 NCR 2957									
19A NCAC 06B .0411	10:23 NCR 2957									
19A NCAC 06B .0412	10:23 NCR 2957									
19A NCAC 06B .0413	10:23 NCR 2957									
19A NCAC 06B .0414	10:23 NCR 2957									
19A NCAC 06B .0415	10:23 NCR 2957									
19A NCAC 06B .0416	10:23 NCR 2957									
19A NCAC 06B .0417	10:23 NCR 2957									
<b>Highways, Division of</b>										
19A NCAC 02D .1101	10:23 NCR 2957									
19A NCAC 02D .1102	10:23 NCR 2957									
19A NCAC 02D .1103	10:23 NCR 2957									
19A NCAC 02D .1104	10:23 NCR 2957									
19A NCAC 02D .1105	10:23 NCR 2957									
19A NCAC 02D .1106	10:23 NCR 2957									
19A NCAC 02D .1107	10:23 NCR 2957									
19A NCAC 02D .1108	10:23 NCR 2957									
19A NCAC 02D .1109	10:23 NCR 2957									

CUMULATIVE INDEX

(April 1996 - March 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				

19A NCAC 02D .1110 10:23 NCR 2957  
19A NCAC 02D .1111 10:23 NCR 2957  
19A NCAC 02D .1112 10:23 NCR 2957  
Motor Vehicles, Division of  
19A NCAC 03E .0500 11:01 NCR 13





# BARCLAYS OFFICIAL NORTH CAROLINA ADMINISTRATIVE CODE - 1995

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
<b>Title 1 - Dept. of Administration - Full Title</b>	<b>201 00 00</b>	<b>\$63.00</b>	<b>\$90.00</b>
Division of Purchase & Contract	201 10 05	\$21.00	\$30.00
Federal Block Grant Funds	201 10 33	\$17.50	\$25.00
<b>Title 2 - Dept. of Agriculture - Full Title</b>	<b>202 00 00</b>	<b>\$98.00</b>	<b>\$140.00</b>
Food & Drug Protection Division	202 15 09	\$28.00	\$40.00
Structural Pest Control Committee	202 15 34	\$21.00	\$30.00
Agricultural Markets	202 15 43	\$21.00	\$30.00
Plant Industry	202 15 48	\$21.00	\$30.00
Animal Industry	202 15 52	\$21.00	\$30.00
<b>Title 3 - Dept. of State Auditor - Full Title</b>	<b>203 00 00</b>	<b>\$7.00</b>	<b>\$10.00</b>
<b>Title 4 - Dept. of Commerce - Full Title</b>	<b>204 00 00</b>	<b>\$87.50</b>	<b>\$125.00</b>
Alcoholic Beverage Control Commission	204 15 02	\$12.00	\$40.00
Banking Commission	204 15 03	\$24.50	\$35.00
Credit Union Division	204 15 06	\$14.00	\$20.00
Savings & Loan Division	204 15 09	\$14.00	\$20.00
Industrial Commission/Workers Compensation	204 15 10	\$14.00	\$20.00
Savings Institutions Division	204 15 16	\$24.50	\$35.00
<b>Title 5 - Dept. of Corrections - Full Title</b>	<b>205 00 00</b>	<b>\$56.00</b>	<b>\$80.00</b>
Division of Prisons	205 15 02	\$24.50	\$35.00
<b>Title 6 - Council of State - Full Title</b>	<b>206 00 00</b>	<b>\$21.00</b>	<b>\$30.00</b>
<b>Title 7 - Dept. of Cultural Resources - Full Title</b>	<b>207 00 00</b>	<b>\$21.00</b>	<b>\$30.00</b>
<b>Title 8 - State Board of Elections - Full Title</b>	<b>208 00 00</b>	<b>\$7.00</b>	<b>\$10.00</b>
<b>Title 9 - Offices of the Governor &amp; Lt. Governor - Full Title</b>	<b>209 00 00</b>	<b>\$31.50</b>	<b>\$45.00</b>
<b>Title 10 - Dept. of Human Resources - Full Title</b>	<b>210 00 00</b>	<b>\$346.50</b>	<b>\$495.00</b>
Licensing of Health Facilities	210 20 10	\$45.50	\$65.00
Detention Facilities	210 20 20	\$31.50	\$45.00
Mental Health & Rehabilitation Services	210 20 30	\$77.00	\$110.00
Social Services	210 20 40	\$119.00	\$170.00
Children Services/Day Care	210 20 41	\$31.50	\$45.00
Services for the Aging	210 20 42	\$31.50	\$45.00
Services for the Blind	210 20 43	\$28.00	\$40.00
Services for the Deaf & Hard of Hearing	210 20 44	\$17.50	\$25.00
Employment Opportunities	210 20 45	\$35.00	\$50.00
<b>Title 11 - Dept. of Insurance - Full Title</b>	<b>211 00 00</b>	<b>\$63.00</b>	<b>\$90.00</b>
Insurance	211 10 01	\$56.00	\$80.00
Consumer Services	211 10 04	\$24.50	\$35.00
Fire & Rescue Services	211 10 05	\$17.50	\$25.00
Agent Services	211 10 06	\$28.00	\$40.00
Engineering & Building Codes	211 10 08	\$21.00	\$30.00
<b>Title 12 - Dept. of Justice - Full Title</b>	<b>212 00 00</b>	<b>\$63.00</b>	<b>\$90.00</b>
Private Protective Services	212 10 07	\$21.00	\$30.00
Police & Sheriff's Education & Training Standards	212 10 09	\$31.50	\$45.00
NC Alarm Systems Licensing Board	212 10 11	\$17.50	\$25.00
<b>Title 13 - Dept. of Labor - Full Title</b>	<b>213 00 00</b>	<b>\$77.00</b>	<b>\$110.00</b>
Mine & Quarry Safety	213 15 06	\$14.00	\$20.00
General Safety/OSHA	213 20 00	\$31.50	\$45.00
Wage & Hour Rules	213 15 12	\$14.00	\$20.00
Boiler & Pressure Vessel Safety	213 15 13	\$14.00	\$20.00
Apprenticeship & Training	213 15 14	\$14.00	\$20.00
Elevator & Amusement Device Safety	213 15 15	\$14.00	\$20.00
<b>Title 14A - Dept. of Crime Control &amp; Public Safety - Full Title</b>	<b>214 00 00</b>	<b>\$31.50</b>	<b>\$45.00</b>
Alcohol Law Enforcement	214 00 08	\$17.50	\$25.00
Victims Compensation Fund	214 00 11	\$14.00	\$20.00
<b>Title 15A - Dept. of Environ., Health, &amp; Nat. Resources - Full Title</b>	<b>215 00 00</b>	<b>\$276.50</b>	<b>\$395.00</b>
Environmental Management	215 15 00	\$115.50	\$165.00
Air Quality	215 15 10	\$49.00	\$70.00
Water Quality	215 15 20	\$49.00	\$70.00
Land & Waste Management	215 15 30	\$56.00	\$80.00
Solid Waste Management	215 15 31	\$35.00	\$50.00
Underground Storage Tanks	215 15 32	\$17.50	\$25.00

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
Coastal Management	215 15 40	\$31.50	\$45.00
Environmental Health	215 25 00	\$105.00	\$150.00
Radiation/Nuclear Waste	215 25 10	\$42.00	\$60.00
Sanitation	215 25 20	\$35.00	\$50.00
Public Health	215 25 30	\$59.50	\$85.00
Intoxilizer & Breathalyzer	215 25 31	\$17.50	\$25.00
<b>Title 16 - Dept. of Public Instruction - Full Title</b>	<b>216 00 00</b>	<b>\$21.00</b>	<b>\$30.00</b>
Elementary & Secondary Education	216 10 06	\$21.00	\$30.00
<b>Title 17 - Dept. of Revenue - Full Title</b>	<b>217 00 00</b>	<b>\$91.00</b>	<b>\$130.00</b>
Taxes on Individuals	217 15 10	\$31.50	\$45.00
Taxes on Business	217 15 20	\$56.00	\$80.00
Sales & Use Tax Division	217 15 27	\$31.50	\$45.00
Motor Fuels Tax Division	217 15 29	\$21.00	\$30.00
<b>Title 18 - Secretary of State - Full Title</b>	<b>218 00 00</b>	<b>\$21.00</b>	<b>\$30.00</b>
Securities Division	218 10 06	\$21.00	\$30.00
<b>Title 19A - Dept. of Transportation - Full Title</b>	<b>219 00 00</b>	<b>\$63.00</b>	<b>\$90.00</b>
Division of Highways	219 10 02	\$28.00	\$40.00
Division of Motor Vehicles	219 10 03	\$35.00	\$50.00
<b>Title 20 - Dept. of the State Treasurer - Full Title</b>	<b>220 00 00</b>	<b>\$31.50</b>	<b>\$45.00</b>
<b>Title 21 - Occupational Licensing Boards - Full Title</b>	<b>221 00 00</b>	<b>\$143.50</b>	<b>\$205.00</b>
<b>Title 22 - Administrative Procedures Act - Repealed</b>	<b>222 00 00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Title 23 - Dept. of Community Colleges - Full Title</b>	<b>223 00 00</b>	<b>\$7.00</b>	<b>\$10.00</b>
<b>Title 24 - Independent Agencies - Full Title</b>	<b>224 00 00</b>	<b>\$7.00</b>	<b>\$10.00</b>
<b>Title 25 - Office of State Personnel - Full Title</b>	<b>225 00 00</b>	<b>\$42.00</b>	<b>\$60.00</b>
<b>Title 26 - Office of Administrative Hearings - Full Title</b>	<b>226 00 00</b>	<b>\$7.00</b>	<b>\$10.00</b>
<b>Title 27 - North Carolina State Bar - Full Title</b>	<b>227 00 00</b>	<b>\$42.00</b>	<b>\$60.00</b>
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STATE

ZIP

### 2. New Address

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ADDRESS

CITY

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Office of Administrative Hearings  
P.O. Drawer 27447  
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